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U.S. GOVERNMENT
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12-22-82
Vol. 47 No. 246
Pages 56979-57252

federal register

Wednesday
December 22, 1982

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Federal Communications Commission

Coal Mining
Surface Mining Reclamation and Enforcement Office

Commodity Exchanges
Commodity Futures Trading Commission

Employee Benefit Plans
Pension Benefit Guaranty Corporation

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Animal and Plant Health Inspection Service

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Nuclear Regulatory Commission

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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.

GENERAL ACCOUNTING OFFICE

4 CFR Parts 2, 3, 4, 5, 6, 7, 8, 9, 11, 21, 22, 30, 31, 32, 33, 34, 35, 36, 51, 52, 53, 75, 81, 82, 91, 92, and 93

Technical and Conforming Amendments

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule makes technical and conforming amendments to change citations of law or references to provisions of law appearing in GAO's existing rules and regulations. This is necessary because of the enactment of the codification of Title 31, U.S.C., into positive law. As a result of this enactment, the substance of provisions of law currently cited in our regulations have been included in the codification while the currently cited provisions of law themselves have been repealed. This rule makes no substantive changes in any of our rules or regulations.

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Cambosos, Office of General Counsel, U.S. General Accounting Office, 275–5544.

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. 97–258, September 13, 1982, 97 Stat. 877, revised, codified and enacted certain general and permanent laws of the United States relating to money and finance as Title 31, U.S.C., entitled "Money and Finance."

The purpose of the codification is to restate without substantive change previously adopted provisions of law and to replace them with the code provisions. Section 4(a) of Pub. L. 97–258, 96 Stat. 1067. Consequently, upon enactment of Title 31, U.S.C., by the Congress, all provisions of law restated in the codification were repealed. Section 5 of Pub. L. 97–258, 96 Stat. 1068. However, any order, rule or regulation in effect under any law repealed by Pub. L. 97–258, continues in effect under the corresponding provision of Title 31, U.S.C. Section 4(c) of Pub. L. 97–258, 96 Stat. 1067.

Since GAO's rules and regulations appearing in Title 4 of the CFR were adopted under authority of provisions of law the substance of which have been carried forward into Title 31, U.S.C., we are amending our regulations to change legal references and citations to the appropriate corresponding section of Title 31, U.S.C.

PART 2—[AMENDED]

Accordingly, Title 4, CFR is amended as follows:

1. The Authority of citation for Part 2 is revised to read as follows:

Authority: 31 U.S.C. 732.

§ 2.2 [Amended]

2. Paragraph (a) of 2.2 is revised to read as follows:

(a) Subchapters III and IV of Chapter 7 of Title 31, U.S.C.

3. Section 2.3 is revised to read as follows:

§ 2.3 GAO Personnel Appeals Board.

The General Accounting Office Personnel Appeals Board is established by 31 U.S.C. 751. This Board will promulgate regulations providing for employee appeals and establishing its operating procedures.

PART 3—[AMENDED]

4. The Authority citation for Part 3 is revised to read as follows:

Authority: 31 U.S.C. 732.

PART 4—[AMENDED]

5. The Authority citation for Part 4 is revised to read as follows:

Authority: 31 U.S.C. 732.

PART 5—[AMENDED]

6. The Authority citation for Part 5 is revised to read as follows:

Authority: 31 U.S.C. 732.

§ 5.1 [Amended]

7. Paragraph (b)(2) of § 5.1 is amended by removing the citation "section 5(a)(4) of the GAO Personnel Act of 1980" and inserting, in its place, the citation "31 U.S.C. 733(c)".

PART 6—[AMENDED]

§ 6.1 [Amended]

8. The parenthetical citation following the text of § 6.1 is revised to read as follows:

(31 U.S.C. 732)

PART 7—[AMENDED]

9. The Authority citation for Part 7 is revised to read as follows:

Authority: 31 U.S.C. 732.

PART 8—[AMENDED]

§ 8.1 [Amended]

10. The parenthetical citation following the text of § 8.1 is revised to read as follows:

(31 U.S.C. 732)

PART 9—[AMENDED]

11. Paragraph (b) of § 9.1 is revised to read as follows:

§ 9.1 GAO Senior Executive Service.

* * * * *

(b) Requirements for positions included in the GAO Senior Executive System. The GAO Senior Executive Service may include—

(1) The 100 positions authorized by 31 U.S.C. 732(c)(4);

(2) The position of General Counsel authorized by 31 U.S.C. 731(c);

(3) The 5 positions authorized by 31 U.S.C. 731(d); and,

(4) The 10 positions authorized by 31 U.S.C. 731(e)(2);

12. The two parenthetical citations "(31 U.S.C. 1154(d))" and "(Sec. 5, Pub. L. 96–191; 94 Stat. 31 (31 U.S.C. 52–4))" following the text of § 9.1 are removed and inserted, in their place, the parenthetical citation "(31 U.S.C. 733)".

PART 11—[AMENDED]

13. The Authority citation for Part 11 is revised to read as follows:

Authority: 31 U.S.C. 711.

PART 21—[AMENDED]

14. The Authority citation for Part 21 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3526 and 3529.

PART 22—[AMENDED]

15. The Authority citation for Part 22 is revised to read as follows:

Authority: 31 U.S.C. 711 and 3529.

§ 22.3 [Amended]

16. Paragraph (e) of § 22.3 is amended by removing the citation "4 CFR Part 1" and inserting, in its place, the citation "4 CFR Part 11".

PART 30—[AMENDED]

17. The Authority citation for Part 30 is revised to read as follows:

Authority: 31 U.S.C. 711 and 3702.

PART 31—[AMENDED]

18. The Authority citation for Part 31 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

§ 31.5 [Amended]

19. Paragraph (a) of § 31.5 is amended by removing the citation "31 U.S.C. 71a" and inserting, in its place, the citation "31 U.S.C. 3702(b)".

20. Paragraph (b) of § 31.5 is amended by removing the citation "31 U.S.C. 122" and inserting, in its place, the citation "31 U.S.C. 3702(c)".

PART 32—[AMENDED]

§ 32.1 [Amended]

21. The Authority citation for Part 32 is revised to read as follows:

Authority: 31 U.S.C. 711.

PART 32—[AMENDED]

22. Section 32.1 is amended by removing the citation "31 U.S.C. 71" and inserting, in its place, the citation "31 U.S.C. 3702".

PART 33—[AMENDED]

23. The Authority citation for Part 33 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5583, unless otherwise noted.

§ 33.6 [Amended]

24. Paragraph (c)(3) of §33.6 is amended by removing the citation "section 1(b) of the act of August 28, 1957, Pub. L. 85–183, 31 U.S.C. 132" and inserting, in its place, the citation "31 U.S.C. 3328(b)".

PART 34—[AMENDED]

25. The Authority citation for Part 34 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 10 U.S.C. 2771; 32 U.S.C. 714; sec. 3, 70A Stat. 619, as amended, 33 U.S.C. 857a; and, sec. 4, 70A Stat. 619, as amended, 42 U.S.C. 213a.

§ 34.3 [Amended]

26. Paragraph (b)(3) of § 34.3 is amended by removing the citation "section 1(b) of the act of August 28, 1957, Pub. L. 85–183, 31 U.S.C. 132." and inserting, in its place, the citation "31 U.S.C. 3328(b)."

PART 35—[AMENDED]

27. The Authority citation for Part 35 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

PART 36—[AMENDED]

28. The Authority citation for Part 36 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

PART 51—[AMENDED]

§ 51.1 [Amended]

29. Section 51.1 is amended as follows:

(a) By removing the citation "section 309, 42 Stat. 25, 31 U.S.C. 49" and inserting, in its place, the citation "31 U.S.C. 3511"; and,

(b) By revising the parenthetical citation immediately following the text to read as follows: (31 U.S.C. 711. Interpret and apply 31 U.S.C. 3511 and 3512.)

PART 52—[AMENDED]

30. The Authority citation for Part 52 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3511, 3512 and 3523.

§ 52.2 [Amended]

31. The parenthetical citation following the text of § 52.2 is revised to read as follows:

(31 U.S.C. 711. Interpret or apply 31 U.S.C. 3511, 3512, 3513, 3526 and 3529; sec. 901(a), 49 Stat. 2015, 46 U.S.C. 1241(a); sec. 5, 88 Stat. 2104, 49 U.S.C. 1517)

PART 53—[AMENDED]

32. The Authority citation for Part 53 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply sec. 322, 54 Stat. 955, as amended, 49 U.S.C. 66(b).

PART 75—[AMENDED]

§ 75.1 [Amended]

33. The parenthetical citation following the text of § 75.1 is revised to read as follows:

(31 U.S.C. 711 and 3511)

PART 81—[AMENDED]

34. The Authority citation for 81 is revised to read as follows:

Authority: 31 U.S.C. 711.

PART 82—[AMENDED]

§ 82.1 [Amended]

35. Paragraph (b) of § 82.1 is amended by removing the citation "(31 U.S.C. 46)" and inserting, in its place, the citation "(31 U.S.C. 704)."

§§ 82.1, 82.2 [Amended]

36. The parenthetical citation following §§ 82.1 and 82.2 are each revised to read as follows:

(31 U.S.C. 711, 713, 714, 718, 3523, 3524, 3526 and 3529)

PART 91—[AMENDED]

37. The Authority citation for Part 91 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5584; 10 U.S.C. 2774; and, 32 U.S.C. 716.

PART 92—[AMENDED]

38. The Authority citation for Part 92 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5584; 10 U.S.C. 2774; and 32 U.S.C. 716.

§ 92.8 [Amended]

39. Paragraph (b) of § 92.8 is amended by removing the citation "31 U.S.C. 71" and inserting, in its place, the citation "31 U.S.C. 3702".

PART 93—[AMENDED]

40. The Authority citation for Part 93 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5584; 10 U.S.C. 2774; and, 32 U.S.C. 716.

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 82-34703 Filed 12-21-82; 8:45 am]

BILLING CODE 1610-01-M

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4 CFR Parts 27 and 28

General Accounting Office Personnel Appeals Board—Organization and Procedures; Technical and Conforming Amendments

AGENCY: General Accounting Office Personnel Apppeals Board.

ACTION: Final rule.

SUMMARY: This rule makes technical and conforming amendments to change citations of law or references to

provisions of law appearing in the Board's existing rules and regulations. This is necessary because of the enactment of the codification of Title 31, U.S.C., into positive law. As a result of this enactment, the substance of currently cited provisions of law appearing in the Board's regulations have been included in the codification while the currently cited provisions of law themselves have been repealed. This rule makes no substantive changes in any of the Board's rules or regulations.

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Cambosos, Office of General Counsel, U.S. General Accounting Office, 275–5544.

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. No. 97–258, September 13, 1982, 97 Stat. 877, revised, codified and enacted certain general and permanent laws of the United States relating to money and finance as Title 31, U.S.C., entitled "Money and Finance."

The purpose of the codification is to restate without substantive change previously adopted provisions of law and to replace them with the code provisions. Section 4(a) of Pub. L. No. 97–258, 96 Stat. 1067. Consequently, upon enactment of Title 31, U.S.C., by the Congress, provisions of law restated in the codification were repealed. Section 5 of Pub. L. 97–258, 96 Stat. 1068. However, any order, rule or regulation in effect under any law repealed by Pub. L. No. 97–258, continues in effect under the corresponding provision of Title 31, U.S.C. 4(c) of Pub. L. No. 97–258, 96 Stat. 1067.

Since the rules and regulations of the Board appearing Title 4 of the CFR were adopted under authority of provisions of law the substance of which have been carried forward into Title 31, U.S.C., it is necessary for the Board to amend its regulations to change legal references and citations to the appropriate corresponding section of Title 31, U.S.C.

Accordingly, Title 4, CFR is amended as follows:

PART 27—[AMENDED]

1. The Authority citation for Part 27 is revised to read as follows:

Authority: 31 U.S.C. 753.

2. Section 27.1 is amended by removing the citation "Section 4 of Pub. L. No. 96–191, 94 Stat. 29, the General Accounting Office Personnel Act of 1980" and inserting, in its place, the citation "31 U.S.C. 751".

PART 28—[AMENDED]

3. The Authority citation for Part 28 is revised to read as follows:

Authority: 31 U.S.C. 753.

§ 28.1 [Amended]

4. Paragraph (b) of § 28.1 is amended by removing the citation "section 4(h) of the Act." and inserting, in its place, the citation "31 U.S.C. 753."

§ 28.3 [Amended]

5. Section 28.3 is amended by removing paragraph "(a)" and redesignating paragraphs "(b)" through "(j)" as paragraphs "(a)" through "(i)".

6. Redesignated paragraph (e) of § 28.3 is amended by removing the citation "Sections 4(f) and (g) of the the Act" and inserting, in its place, the citation "31 U.S.C. 752(b)".

§ 28.25 [Amended]

7. Paragraph (f) of § 28.25 is amended by removing the citation "section 4(l)(1) of the Act," and inserting, in its place, the citation "31 U.S.C. 755,".

§ 28.27 [Amended]

8. Paragraph (a) of § 28.27 is amended by removing the citation "subsections 4(h)(1), (2), (3), (6), and (7) of the Act" and inserting, in its place, the citation "31 U.S.C. 753(a) (1), (2), (3), (6), and (7)".

9. Paragraph (c) of § 28.27 is amended by removing the citation "section 4(l) of the Act" and inserting, in its place, the citation "31 U.S.C. 755".

§ 28.31 [Amended]

10. Section 28.31 is amended by removing the citations "Section 3(g) of the Act" and "section 3(g)(3) of the Act" and inserting, in their places, the citations "Section 732(f) of Title 31, U.S.C." and "31 U.S.C. 732(f)(2)", respectively.

§ 28.33 [Amended]

11. Paragraph (c) of § 28.33 is amended by removing the citation "section 3(g)(3) of the Act" and inserting, in its place, the citation "31 U.S.C. 732(f)(2)".

§ 28.41 [Amended]

12. Paragraph (e) of § 28.41 is amended by removing the citation "Act, Section 3(g)(3)" and inserting, in its place, the citation "31 U.S.C. 732(f)(2)".

§ 28.61 [Amended]

13. Section 28.61 is amended by removing the citation "section 4(h)(4) and (5) of the Act" and inserting, in its place, the citation "31 U.S.C. 753(a)(4) and (5)".

14. Section 28.81 is revised to read as follows:

§ 28.81 Authority of the Board.

(a) The procedures in this subpart relate in part to the Board's function to "consider and order corrective or disciplinary action in cases arising from * * * a matter appealable to the Board under the labor-management relations program under" 31 U.S.C. 732(e)(2) "including a labor practice prohibited under" 31 U.S.C. 732(e)(1). 753(a)(6).

(b) The system so established by the Comptroller General is required to provide that each employee of the GAO has the right to form, join or assist, or not form, join, or assist, an employee organization, freely and without penalty or reprisal and for a labor-management relations program, consistent with Chapter 71 of Title 5, U.S.C. (31 U.S.C. 732(e))

§ 28.105 [Amended]

15. Paragraph (a) of § 28.105 is amended by removing the citation "section 4(g) of the Act" and inserting, in its place, the citation "31 U.S.C. 752(b)".

16. Paragraph (e) of § 28.105 is amended by removing the citation "section 4(1) of the Act" and inserting in its place, the citation "31 U.S.C. 755".

§§ 28.1, 28.3, 28.11, 28.17, 28.21, 28.33, and 28.103 [Amended]

17. In addition to the amendments set forth above 4 CFR Part 28 is amended by removing the words "the Act" and inserting, in their place, the citation "Subchapters III and IV of Chapter 7 of Title 31, United States Code" in the following places:

(a) 4 CFR 28.1(a)(3) and (4) and (c);

(b) 4 CFR 28.3(h) as redesignated above;

(c) 4 CFR 28.11(a);

(d) 4 CFR 28.17(d);

(e) 4 CFR 28.21(i);

(f) 4 CFR 28.33(b)(1) and (2); and,

(g) 4 CFR 28.103.

Edward C. Gallas,

Chairman.

[FR Doc. 82–34704 Filed 12–21–82; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Regulation 6, Amdt. 19]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum size requirement applicable to fresh domestic shipments of Honey tangerines from 2$^{9}/_{16}$ inches to 2$^{6}/_{16}$ inches in diameter on and after December 20, 1982. This action allows an increase in the supply of tangerines in recognition of demand conditions and the size composition of available supply in the interest of growers and consumers. This amendment also corrects an error in the grade requirement of domestic and export shipments of Honey tangerines.

EFFECTIVE DATE: December 20, 1982.

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

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

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Honey tangerines, as hereinafter provided, will tend to effectuate the declared policy of the Act.

This amendment would relax limitations on the handling of Honey tangerines by permitting each handler, on and after December 20, 1982, to ship Honey tangerines in domestic channels of 176 size (2$^{6}/_{16}$ inches) and larger.

The committee reports that the total quantity of Honey tangerines which are currently being harvested is less than anticipated and there is a need to augment the total available supply of fruit for market by permitting shipment of smaller sized Honey tangerines. Honey tangerines are maturing approximately four to six weeks early this season. This amendment allows shipment of smaller sizes which normally would not be matured at this time. Thus, relaxation of the regulation is necessary to allow a greater proportion of the available supply of marketable fruit to reach the market.

This regulation also corrects an error in the domestic and export grade requirements for Honey variety tangerines. Florida Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendments 13 and 16 (47 FR 44704 and 47 FR 54926, respectively) incorrectly list the minimum grade of Honey tangerines as U.S. No. 1 for domestic and export shipment. On and after October 1982, the correct minimum grade for domestic and export shipments of such tangerines is Florida No. 1.

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

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I, paragarph (a) applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Oranges, Grapefruit, Tangerine and tangelo regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
* * * * *			
Tangerines	Oct. 18 to Dec. 19, 1982.	Florida No. 1	2$^{6}/_{16}$
Honey	On and after Dec. 20, 1982.	Florida No. 1	2$^{6}/_{16}$
* * * * *			

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
* * * * *			
Tangerines:			
Honey	On and after Oct. 18, 1982.	Florida No. 1	2$^{6}/_{16}$
* * * * *			

* * * * *

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

Dated: December 16, 1982.

D. S. Kuryloski,

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

[FR Doc. 82–34641 Filed 12–21–82; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 82–091]

General Provisions; Interstate Movement of Diseased Animals and Poultry; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: On December 7, 1981 (46 FR 59527–59528), a document was published in the **Federal Register** which removed the word "screwworms" from the regulations in § 71.3(a). However, on February 23, 1982 (47 FR 7825–7826), a document published in the **Federal Register** inadvertently included the word "screwwworms" in § 71.3(a) when making other amendments to that section. This document corrects this administrative oversight which resulted in reinstating the word "screwworms" in 9 CFR 71.3(a).

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Jack R. Pitcher, Sheep, Goat, Equine and Ectoparasites Staff, VS, APHIS,

USDA, Room 738, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8231.

§ 71.3 [Corrected]

Accordingly, 9 CFR 71.3(a) is corrected by removing the word "screwworms."

(Sec. 2, 32 Stat. 792; secs. 3 and 11, 23 Stat. 32, as amended; sec 1, 32 Stat. 791 (21 U.S.C. 111, 114, 114(a), 120))

Done at Washington, D.C. this 15th day of December 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-34556 Filed 12-21-82; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 91

[Docket No. 82-084]

Port Designated for Exportation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations which lists the ports of embarkation and export inspection facilities, by adding Indianapolis, Indiana, as a port of exportation. The effect of this action will be to add an additional port through which animals may be exported. This action is necessary to save both time and additional expenses presently imposed on exporters.

DATES: Effective date: December 22, 1982. Written comments must be received on or before February 21, 1983.

ADDRESS: Written comments should be submitted to the Deputy Administrator, VS, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Dr. N. Q. Faizi, VS, APHIS, USDA, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This document has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. George P. Pierson, Acting Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule since the export inspection facilities at the port being added to the list of designated ports of embarkation have met the standards for export inspection facilities set forth in § 91,41(c) of the regulations; and the addition of this port to the list must be made promptly in order to inform exporters of the addition of this port so that they can make appropriate plans to export their animals and avoid unnecessary restrictions on the exportation of animals.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document, and this action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that approximately 35 shipments of animals, consisting of cattle, swine, and occasionally sheep and goats, will be exported annually through the facility at Indianapolis, Indiana. The addition of Indianapolis, Indiana, to the list of approved exportation facilities will increase the number of such facilities from twenty-three to twenty-four. According to Foreign Agricultural Service records, there are approximately 700 exporters who could use these export facilities nationwide. It is anticipated that only 8 such exporters will be utilizing this facility.

Alternatives Considered

The following alternatives were considered in making this interim rule:

1. Make no change in lists of ports.
2. Amend the regulations by adding Indianapolis, Indiana, as a port of export.

Alternative No. 1 was rejected because the export inspection facilities at the Indianapolis International Airport meet the requirements of § 91.14(c) and this alternative would be an unnecessary restriction placed upon the exporters who otherwise would choose to use this port of export.

Alternative No. 2 is the most advantageous to exporters because they can export animals from the Indianapolis International Airport instead of having the additional expense of transporting them to Dundee, Illinois, which is 250 miles away. Also, it appears that this alternative would maximize the net benefit to society at the lowest net cost.

Background

The Department has been requested to designate Indianapolis, Indiana, as a port of export through which animals can be exported. This action will facilitate approximately 35 shipments of animals annually.

Section 91.14(a) of Title 9, Code of Federal Regulations (9 CFR 91.14(a)) lists ports which have export inspection facilities which satisfy the requirements of paragraph (c) of said section and are therefore designated as ports of embarkation. The section further requires that, except for certain exceptions, all animals be exported through either the ports listed in § 91.14(a) or through ports designated in special cases under paragraph (b) of this section.

Presently, ports of exports in § 91.14(a) are listed alphabetically by State; therefore, the State of Indiana will

be added to the list as § 91.14 (a)(4) and the present § 91.14(a)(4) through § 91.14(a)(12) will be renumbered § 91.14(a)(5) through § 91.14(a)(13), respectively.

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock and livestock products, Transportation, Humane animal handling.

PART 91—INSPECTION AND HANDLING OF LIFESTOCK FOR EXPORTATION

Accordingly, Part 91, Title 9, Code of Federal Regulations, is amended in the following respect.

In § 91.14(a), paragraphs (4) through (12) are redesignated as (5) through (13) and a new paragraph (4) is added to read:

§ 91.14 Ports of embarkation and export inspection facilities.

(a) * * *

(4) *Indiana.*

(i) Indianapolis—airport only.

(A) Indiana Livestock Export Inspection Facility, Indianapolis International Airport, 7151 Powers Drive, Indianapolis, IN 46241, (317) 248–9211.

* * * * *

(Sec. 10, 26 Stat. 417; secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; secs. 1, 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C 466a, 466b); 7 CFR 2.17, 2.51, 371.2(b))

Done at Washington, D.C., this 15th day of December 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-34557 Filed 12-21-82; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

Partial Regionalization of the Operator Licensing Function

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations relating to operator licenses to provide information concerning the further implementation of NRC's regional licensing program. This amendment states that authority and responsibility for the issuance of licenses for operators and senior operators of licensed nuclear reactors located in Regions II and III have been assigned and delegated to the Regional Administrators of Regions II and III and specifies where applicants for these licenses should obtain necessary forms and file applications. This amendment is necessary to inform licensees, operators, applicants, and the public of current NRC organization and practice.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Don H. Beckhan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone (301) 492–4868.

SUPPLEMENTARY INFORMATION: In further implementation of its regionalization program, the Commission has delegated to the Regional Administrators of Regions II and III authority and responsibility pursuant to the regulations in 10 CFR Part 55 to issue and renew licenses for operators and senior operators of nuclear reactors licensed under 10 CFR Part 50 and located in those regions.

The general delegation of authority for the Regional Administrators is described in NRC Manual Chapter 0128. Pursuant to that general delegation of authority, the Executive Director for Operations and the Director of Nuclear Reactor Regulation assigned and delegated to the Regional Administrators for Regions II and III the responsibility under 10 CFR Part 55 for licensing operators of nuclear reactors licensed under 10 CFR Part 50 and located in Regions II and III. Copies of the delegations of authority have been placed in the Commission's public document room at 1717 H Street, NW., Washington, D.C., and at the Region II Office, 101 Marietta Street, Suite 3100, Atlanta, Georgia 30303, and the Region III Office, 799 Roosevelt Road, Glen Ellyn, Illinois 60137, where they are available for inspection and copying by the public.

The revised regulations, which are intended to inform licensees and the public of current NRC practices and organization, specify where applications for operator and senior operator licenses shall be filed, where reports and communications shall be submitted and where needed information and forms may be obtained.

Since the amendments to Part 55 are nonsubstantive and relate to matters of agency organization and procedure, the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and good cause exists for making the amendments effective on December 17, 1982, without the customary 30-day waiting period.

Paperwork Reduction Act Statement

This rule contains no new or amended requirements for recordkeeping, reporting, plans or procedures, applications, or any other type of information collection subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511.

List of Subjects in 10 CFR Part 55

Manpower training programs, Nuclear power plants and reactors, Penalty, Reporting requirements.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Part 55 are published as a document subject to codification.

PART 55—OPERATORS' LICENSES

1. The authority citation for Part 55 is revised to read as follows:

Authority: Secs. 107, 161, 68 Stat. 939, 948, as amended (42 U.S.C. 2137, 2201); secs. 201, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 55.40 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 55.3 and 55.31(a)–(d) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and § 55.41 is issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 55.5 is revised to read as follows:

§ 55.5 Communications.

(a) Except as provided under a regional licensing program identified in paragraph (b) of this section, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H St. NW., Washington, D.C. or

(ii) 7920 Norfolk Avenue, Bethesda, Maryland.

(b)(1) The Commission has delegated to the Regional Administrators of Regions II and III authority and responsibility pursuant to the regulations in this part for the issuance and renewal of licenses for operators and senior operators of nuclear reactors

licensed under 10 CFR Part 50 and located in these regions.

(2) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region II and any inquiry, communication, information or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region II must be submitted by mail or in person to the Regional Administrator, Region II, U.S. Nuclear Regulatory Commission, 101 Marietta Street, Suite 3100, Atlanta, Georgia 30303. The Regional Administrator of Region II, or his designee, will transmit to the Director of Nuclear Reactor Regulation any matter which is not within the scope of the Regional Administrator's delegated authority.

(3) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region III, and any inquiry, communication, information or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region III, must be submitted by mail or in person to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. The Regional Administrator of Region III, or his designee, will transmit to the Director of Nuclear Reactor Regulation any matter which is not within the scope of the Regional Administrator's delegated authority.

3. In Section 55.10, paragraph (a) is revised to read as follows:

§ 55.10 Contents of applications.

(a) As provided in § 55.5, each application for a license must be filed with the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety and Safeguards, or a designated Regional Administrator, as appropriate. The application must be submitted in triplicate, except for the report of medical examination, and must contain the following information:

(1) The full name, citizenship, age, address, and present employment of the applicant;

(2) The education and pertinent experience of the applicant, including detailed information on the extent and nature of responsibility;

(3) Serial numbers of any operator and senior operator license issued by the Commission to the applicant and the expiration date of each;

(4) The specific facility for which the applicant seeks an operator or senior operator license;

(5) The written request of an authorized representative of the facility licensee that the operating test be administered to the applicant of the facility.

(6) Evidence that the applicant has learned to operate the controls in a competent and safe manner and has need for an operator or a senior operator license in the performance of his duties. The Commission may accept as proof of this a certification of an authorized representative of the facility licensee where the applicant's services will be utilized. This certification must include details on courses of instruction administered by the facility licensee, number of course hours, number of hours of training and nature of training received at the facility, and for reactors, the startup and shutdown experience received.

(7) A report of a medical examination by a licensed medical practitioner, in one copy in the form prescribed in § 55.60.

* * * * *

4. Section 55.41 is revised to read as follows:

§ 55.41 Notification of disability.

The licensee shall notify the Commission of the occurrence of any disability referred to in § 55.11(a)(1) that occurs after the submission of the licensee's medical examination form. As provided in § 55.5, the licensee shall notify the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety and Safeguards, or the designated Regional Administrator, as appropriate, within 15 days after the occurrence of the disability.

5. In § 55.60, paragraph (b) and the note to the section are revised to read as follows:

§ 55.60 Examination form.

* * * * *

(b) The examining physician shall complete and sign Form NRC–396, and, as provided in § 55.5, shall mail the completed form to the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety and Safeguards, or the designated Regional Administrator, as appropriate.

Note:—Copies of Form NRC–396 may be obtained by writing the Commission at the appropriate address provided in § 55.5.

Dated at Bethesda, Maryland, this 8th day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Excutive Director for Operations.

[FR Doc. 82–34702 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523, 541, 543, 544, 545, 546, 547, 549, 552, 561, 563, 563b, 564, 565, 569a, 575, 576, 577, 578, 583, and 584

[No. 82–791]

Charters and Bylaws Available to Federal Associations, and Related Amendments; Processing of Applications

Dated: December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; request for comments.

SUMMARY: In order to implement statutory revisions contained in Public Law 97–320, the Garn-St Germain Depository Institutions Act of 1982, the Federal Home Loan Bank Board has amended its regulations governing federal association charters. Under the amendments, all federal associations (or those seeking to convert to federal associations) may elect to be chartered either as federal savings and loan associations or as federal savings banks. In addition, federal charters, whether in the stock or mutual form, may be obtained by state-chartered savings banks without the requirement that they surrender their Federal Deposit Insurance Corporation ("FDIC") insurance in favor of insurance of accounts from the Federal Savings and Loan Insurance Corporation ("FSLIC"). No charter already issued will have to be amended if an institution is content with the status quo; any amendment will be purely a business decision for an institution. Because of the addition of FDIC-insured federal savings banks to the list of Board regulatees, numerous technical and conforming amendments have been made, particularly in the merger area. This, in large degree, has been required as a result of the fact that many regulations designed to apply to federal associations are cast in terms of whether an institution is an "insured institution," i.e., one the accounts of which are insured by the FSLIC.

As an additional matter, the Board also is consolidating its application process for all de novo federal mutual associations. The amendments will combine the Permission to Organize application and the Petition for Charter application. The Board will propose de novo federal stock institution application regulations in the near future.

These changes should prove extremely beneficial to thrift

institutions. A wider range of thrifts will have access to a greater variety of federal charter forms, and to the increased empowerments and flexibility that accompany those charters. Moreover, the process of applying to organize a federal association will be simplified and streamlined, benefiting those seeking to enter the thrift industry.

DATES: Effective December 15, 1982.

Comments must be received by February 22, 1983

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

FOR FURTHER INFORMATION CONTACT: Randall H. McFarlane, Legislative Counsel, Office of General Counsel (202–377–6449), David A. Permut, Attorney, Office of General Counsel (202–377–6982), Donna K. Ralston, Attorney, Office of General Counsel (202–377–6421), or K. Diane Boyle, Program Analysis Development Division Director, Office of District Banks (202–377–6720).

SUPPLEMENTARY INFORMATION:

Charters Available to Federal Associations and Related Amendments

A. Overview

On October 15, 1982, the Garn-St Germain Depository Institutions Act of 1982 ("Act"), Pub. L. 97–320, was enacted. A major thrust of the Act is to broaden greatly the chartering and organizational options open to federal associations. Previously, federal associations could be organized on a de novo basis only as federal mutual savings and loan associations. The Board could charter federal savings banks, but only as mutual institutions with accounts insured by the FSLIC, and only as a direct consequence of a conversion from a state-chartered mutual savings bank. The Act not only permits de novo organization of federal savings banks, it allows any current or future federal association to be chartered either as a federal savings and loan association or a federal savings bank. Furthermore, federal charters, whether in the stock or mutual form, may be obtained by state-chartered savings banks without the requirement that they surrender their FDIC insurance in favor of FSLIC insurance of accounts. The Act also considerably broadens the statutory purposes of federal associations; prior to the passage of the Act, the basic purpose of a federal association was to act as a place for the investment of funds and as a source of investment for housing. The statutory purposes of federal associations now include the financing of all goods and services.

The Board has determined to respond to these changes basically by creating four new charter forms, which will be accessible to all federal associations or those institutions qualifying to convert to federal associations. Any institution wishing to organize as, or convert to, a federal mutual savings bank will seek a Charter B (Revised) instead of a Charter B. An association desirous of organizing as, or converting to, a federal stock savings bank will elect a Charter T. Those that wish to organize as, or convert to, federal mutual savings and loan associations, will have to obtain a Charter N (Revised) rather than a Charter N, or a Charter L rather than a Charter K (Revised). All the new mutual charters contain conforming changes to reflect, as a result of the Act, the broader purposes of federal associations. Charter T follows the very broadly phrased language of Charter S (for federal stock savings and loan associations). Current holders of charters will not have to amend their charters or seek new charters unless they perceive a business or other benefit, such as the ability to operate as a federal savings bank. In the interest of rapid implementation of the Act, the Board has not attempted to make extensive changes in its previous charter forms, although it believes such changes may be appropriate. The Board intends, however, to examine the need for a broad restructuring of its charter forms in the near future, and has instructed its staff to develop proposals on this subject.

Because the Act provides, for the first time, for Board regulation of FDIC-insured institutions, it has been necessary to make a large number of amendments to prior regulations to permit these institutions to fit rationally into a regulatory scheme largely keyed to a description of regulatees as "insured institutions," i.e., institutions the accounts of which are insured by the FSLIC. Among the more important of these were amendments adjusting the Board's merger regulations to accommodate the presence of FDIC-insured organizations.

B. Federal Mutual Savings Banks

Previous regulations governing federal mutual savings banks ("FMSBs") were found in 12 CFR Parts 575, 576, 577 and 578. Given the wider availability of the FMSB charter option, previously open only to converted state mutual savings banks, the removal by the Act of distinctions between FMSBs and other federal associations in such areas as branching and discrimination requirements, and the substantial changes made regarding grandfathering, it was determined to repeal those Parts, after making appropriate regulatory adjustments elsewhere in 12 CFR Part 544. Thus, 12 CFR 544.1(c) will contain Charter B (Rev.), the form that will be used by new FMSBs. That form will be virtually the same as the former Charter B, basically containing changes intended to conform to the broadened purposes of federal associations, the availability of authority to offer demand accounts as well as savings accounts, the repeal of former restrictions on equity, corporate bond and consumer loan investments, and the existence of FDIC-insured FMSBs not subject to FSLIC insurance reserve requirements. FMSBs, except as specifically noted in the regulations or their charters, will have the same powers and be subject to the same requirements as other federal associations.

C. Federal Stock Savings Banks

Federal associations (whether FSLIC-insured or FDIC-insured) wishing to operate as federal stock savings banks will do so under new Charter T, found at 12 CFR 552.3. Charter T essentially is Charter S with the phrase "Charter T" substituted for "Charter S," the words "Federal Savings Bank" substituted for the words "Federal Savings and Loan Association," and the word "bank" substituted for the word "association". Charter T associations will be regulated, except as specifically provided in their charters or by regulation, on the same basis as other federal associations. Any association in the mutual form must convert to the stock form pursuant to the provisions of 12 CFR Part 563b in order to obtain a Charter T.

D. Federal Savings and Loan Associations

Charters for new mutual-form federal savings and loan associations previously were issued either as Charter N, under 12 CFR 544.1(a), or as Charter K (rev.), under § 544.1(b). Charters issued under those provisions are being modified slightly to reflect changes resulting from the Act, and are redesignated as Charter N (rev.) and Charter L, respectively. The changes involve restating the purpose of an association as being to pursue the lawful objectives of a federal association, rather than simply to promote thrift and economical home financing, and conforming the Charters, previously oriented only to holders of savings

accounts, to reflect the existence of demand accounts.

E. Adoption by Federal Associations of New Federal Charters

Large numbers of federal associations have expressed interest in converting to federal savings banks. Under these amendments, a federal savings and loan association may become a federal savings bank (and vice versa) only in connection with a change of charter under 12 CFR 544.3. This requirement is contained in 12 CFR 543.1(b), dealing with title changes. Section 544.3, which previously dealt only with changes to Charter K (rev.) from Charter N, now governs all situations where a federal mutual association seeks a new form of federal mutual charter, or a federal stock association seeks a new form of federal stock charter. The simple procedure of the old regulation, however, is preserved: when notified by an institution's board that a majority of the institution's members or stockholders have approved adoption of a new form of federal charter, the Board will issue the charter in the form desired, upon approval of any change sought in name or location. Approval of the charter and other changes, however, now may be made by the Principal Supervisory Agent.

F. Mergers

Previously, the merger regulations for federal mutual associations, found at 12 CFR Part 546, and for federal stock associations, found at 12 CFR Part 552, contemplated mergers only with FSLIC-insured institutions. With the provision of authority to charter FDIC-insured federal associations, it has been necessary to make certain regulatory adjustments. Accordingly, 12 CFR 546.1(a) is amended to allow: Under subparagraph (1), mergers between FSLIC-insured federal associations and other FSLIC-insured institutions, as per prior regulation; under subparagraph (2), mergers between FDIC-insured federal associations and other FDIC-insured institutions, provided laws applicable to the non-federal associations are complied with (for instance, the provisions of the Bank Merger Act (12 U.S.C. 1828)); and under subparagraph (3), mergers between FDIC-insured federal associations and FSLIC-insured institutions, subject to prior FDIC approval and compliance with such law as may be applicable to the non-federal associations involved. Other amendments include a revision of 12 CFR 546.1(a) to expand the definition of "association" to include commercial banks eligible to merge with a federal association, and a revision of 12 CFR 546.2(g), concerning the law governing effective dates of mergers, to cover the possibility of resulting associations other than federal associations that would not be subject to state law requirements.

Similar changes are made to the federal stock association merger regulations in 12 CFR 552.13. Section 552.13(c)(1), which previously limited merger partners to institutions insured by the FSLIC, is amended to stipulate that, where a transaction involves an FDIC-insured federal association, the constituent associations may be either FDIC-insured or FSLIC-insured (including interim federal and interim state associations). Another change in § 552.13(b)(1) provides an additional exception to the rule that a mutual association must survive its merger with a Charter S or T association. This amendment incorporates the new exception into § 552.13(c)(1) in conformity with an amendment to § 563b.10 of the Rules and Regulations for Insurance of Accounts (12 CFR 563b.10) which authorized, on a test-case basis, the filing of applications for the non-supervisory merger of insured mutual institutions into insured stock institutions. (See Board Res. No. 82–390; 47 FR 24252, June 4, 1982.) Section 552.13(b)(1) is revised to include commercial and industrial banks within the definition of association. In addition, the provision governing Board approval, § 552.13(d), is amended, as required by statute, to require prior FDIC approval of mergers of FDIC-insured federal associations with entities not so insured, and § 552.13(e), concerning board-of-director approval, is amended to acknowledge that state law may not always be determinative with respect to what procedure a board must observe to approve a merger. Finally, § 552.13(l), dealing with effective dates of mergers, is revised to recognize that state law may not be the proper source of authority as to what date is proper where a resulting association is not a federal association.

G. Delegation of Authority Regarding State Stock to Federal Stock Conversions

On October 29, 1981, by Resolution No. 81–651 (46 FR 54722, November 4, 1981), the Board amended the Rules and Regulations for the Federal Savings and Loan System to provide in § 552.2–1 (12 CFR 552–2.1) for delegation of authority to the Principal Supervisory Agent of the appropriate Federal Home Loan Bank to approve applications for conversion of state-chartered stock savings and loan institutions to federally-chartered stock savings and loan institutions.

Based on its experience with conversion applications processed pursuant to Section 552–2.1, the Board has found that applications for conversion of state-chartered stock savings and loan institutions to federally-chartered stock savings and loan institutions for supervisory reasons may present significant legal issues or policy considerations requiring review by the Board's staff in Washington, D.C. Accordingly, the Board has determined to amend its delegation of authority to the Principal Supervisory Agent to approve state stock to federal stock conversion applications to delegate to the General Counsel the authority to approve conversion applications undertaken for supervisory reasons. The amendment does not affect the delegation of authority to the Principal Supervisory Agent to approve conversion applications not undertaken for supervisory reasons.

On March 26, 1980, by Resolution No. 80–202, the Board delegated to the Principal Supervisory Agent the authority to approve unprotested applications for conversion of state-chartered institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation to federally-chartered institutions conditioned upon the applicant's satisfaction of the criteria established in § 543.9 (12 CFR 543.9) and submission of evidence from the appropriate state authorities within six months from the date of the approval of the conversion application that the conversion is in conformance with state law. The first of these conditions is contained in § 552–2.1. The Board has determined to amend § 552–2.1. to include the second of these conditions in order to ensure that the conversion of state-chartered stock savings and loan institutions to federally-chartered stock savings and loan institutions complies with the applicable laws of the applicants' jurisdictions. However, in order to expedite the conversion process, the Board is requiring that the certification that the conversion is in conformance with state law be made by independent local counsel rather than by the appropriate state authorities.

H. Miscellaneous, Technical and Conforming Amendments

1. A new § 523.3–2 authorizes the Principal Supervisory Agent to approve all unprotested FHLBank membership applications.

2. 12 CFR 523.10(b)(1) is amended to indicate that FDIC-insured banks may include stock-form as well as mutual-form savings banks.

3. 12 CFR 541.8 is amended to include savings banks chartered under section 5 of the Home Owners' Loan Act as federal associations. Previously, the section only referenced federal savings and loan associations so chartered.

4. 12 CFR 541.8–1 is amended to delete the words "A savings and loan", thus allowing the Board to charter interim federal associations that are federal savings banks.

5. In order to clarify to whom questions should be directed regarding conversions to federal mutual charters, and the status of Supervisory Agent recommendations on same, 12 CFR 543.8 is amended to incorporate the substance of former 12 CFR 576.1, regarding mutual savings bank conversions. Similar language exists at 12 CFR 543.2(a), regarding permission to organize a federal association. In addition, § 543.8 is amended to indicate that approval authority for conversions to federal charters is delegated to the Principal Supervisory Agent.

6. An amendment to 12 CFR 543.9(c) stipulates that an eligibility examination by the FSLIC is not a precondition to Board consideration of a request for a federal charter by an FDIC-insured savings bank. Section 543.9(d) is amended to delete reference to a repealed statutory requirement that a state institution seeking a federal charter must receive approval of 51 percent of its members. The question of consent now will be left entirely to state law. In addition, those sections, as well as § 543.9(a), are amended to reflect delegation of authority to the Principal Supervisory Agent to approve conversion applications.

7. 12 CFR 543.10 is removed, and 12 CFR 543.11 is redesignated as § 543.10, with an amendment to supply a reference to the procedures in new § 543.11 as constituting an exception to the normal post-conversion organization rules for federal associations. 12 CFR 576.4, governing organization after conversion to federal charter of federal mutual savings banks, is redesignated as new § 543.11, and amended to specify that it applies only to FMSBs that immediately prior to conversion were state MSBs. References are amended to conform to the new section numbers.

8. A new § 543.12 is added which states that the Board may grant federal charters to FDIC-insured savings banks notwithstanding their failure to obtain FSLIC insurance of accounts.

9. A new § 543.13 is added which states that the Board shall notify the FDIC of applications for federal charters by FDIC-insured institutions, shall consult with it before disposing of such an application, and shall notify it of the Board's determination with respect to the application.

10. 12 CFR 544.2, concerning federal charter amendments, is amended to indicate in the introductory text and paragraph (i) that it applies only to mutual savings and loan associations, and not to federal mutual savings banks, which are governed by another provision in this respect. Section 544.2(c) is amended to delete the word "savings", in recognition of the ability of federal associations to offer demand accounts as well as savings accounts, and § 544.2(f) is revised to replace obsolete references to Charter N and Charter K (rev.) with references to Charter N (Rev.) and Charter L.

11. 12 CFR 577.1–1, setting forth a preapproved mutual capital certificate amendment for federal mutual savings banks, is amended to redesignate it as 12 CFR 544.2–1, after removing existing § 544.2–1.

12. A new 12 CFR 544.2–2 is added, dealing with preapproval of federal mutual savings bank corporate title changes. The language is virtually identical to that of 12 CFR 577.1–2, repealed by these amendments, concerning the same subject.

13. 12 CFR 544.5, regarding prescribed bylaws, is amended to indicate they are applicable only to federal mutual S&Ls.

14. 12 CFR 577.2, regarding bylaws for federal mutual savings banks, is redesignated 12 CFR 544.5–1 and revised to indicate that it applies only to federal mutual savings banks.

15. A new § 544.8 is added to incorporate the substance of 12 CFR 578.1(b), removed by these amendments. Paragraph (a) essentially restates the provision in § 578.1(b) that references in the regulations to federal mutual savings and loan charters shall also be deemed references to federal mutual savings bank charters, also stipulating that references to superseded mutual association charter forms shall be references to the new forms created by these amendments. Paragraph (b) duplicates the requirement in § 578.1(a) that federal mutual savings bank trustees are subject to regulations applicable to federal savings and loan association directors.

16. A new § 544.9 is added, stipulating that Charter B federal mutual savings banks no longer must comply with a now-obsolete charter provision restricting their corporate debt, equity, and consumer loan investments.

17. 12 CFR 546.5, concerning conversions to the state mutual form under a now repealed provision of section 5(i) of the Home Owners' Loan Act of 1933, is deleted.

18. 12 CFR 547.3, 547.6, 549.1(b), 549.2 and 549.3, relating to receiverships, are amended to conform to the statutory requirement that the Board appoint the FDIC as receiver for FDIC-insured federal associations. In addition, the amendment to § 547.6 deletes a confusing reference to liquidation as the sole purpose of a receivership.

19. 12 CFR 549.5–1(a) is amended to stipulate that federal savings bank receivers shall follow procedures for deposit associations. Amendments are made to § 549.5–1 (b) and (c) to provide for the fact that federal associations now may offer demand accounts, and not just savings accounts.

20. The introductory text and paragraph (b) of 12 CFR 552.1 are amended to state that references to Charter S associations also shall be deemed to be references to Charter T associations, and to define a Charter T association, in effect, as a federal stock savings bank. Old paragraph (b) is redesignated as paragraph (c).

21. 12 CFR 552.2–1, dealing with conversions of state-stock associations to federal stock charters, is amended to delete obsolete requirements pertaining to the date on which a state institution became a stock association, and to provide for conversion of state stock savings banks.

22. 12 CFR 552.3(a) is amended by adding a clarifying reference to Charter T associations.

23. 12 CFR 552.9 is amended to substitute references to Charter N (Rev.) for obsolete references to Charter N.

24. 12 CFR 561.1 is amended to add references to federal savings banks, interim federal associations, and interim state associations as institutions that may be insured by the FSLIC, and to stipulate that, except as specifically noted, FDIC-insured federal associations will be subject to regulations applicable to "insured institutions", as are other federal associations.

25. 12 CFR 561.2, defining insured member, is amended to stipulate that, for the purposes of that provision, the term "insured institution" shall not include an FDIC-insured federal association.

26. 12 CFR 561.11 is amended to include savings accounts held at FDIC-insured federal associations within the definition of "savings accounts".

27. 12 CFR 563.7–1 is amended to remove the term "savings and loan", thus clarifying that the provision, which deals with savings deposits or shares of federal associations, applies to federal savings banks.

28. 12 CFR 563.7–4(a) is amended to change the phrase "insured mutual

institution" to clarify that it refers to all insured institutions, including FDIC-insured federal associations, that are in the mutual form.

29. 12 CFR 563.14, regarding payment of dividends, is amended to ensure its applicability to dividends paid to accountholders by FDIC-insured savings banks.

30. 12 CFR 563.15 and 563.16, regarding insurance premiums, are amended to specify that the provisions do not apply to FDIC-insured federal associations.

31. 12 CFR 563.28 is amended to indicate that an FDIC-insured federal association is prohibited from advertising itself as a member of the FSLIC.

32. 12 CFR 563.31 is amended by revising paragraph (a) to state that an FDIC-insured federal association may not obtain deposit insurance in addition to that provided by the FDIC, paralleling the requirement that FSLIC-insured institutions obtain insurance of accounts only from the FSLIC. In addition paragraph (b)(1) is amended to provide that federal savings banks as well as federal savings and loan associations may give bond or security.

33. 12 CFR 563b.3(b)(4), 563b.4(a)(xiv), and 563b.4(b) are to clarify that federal stock charters are available to federal associations insured by the FDIC.

34. 12 CFR 563b.8(d)(2) and (3) are amended to indicate that any eligible mutual, state or federal, may convert to either a Charter S or a Charter T, and that the corporate existence of the converting institution does not terminate.

35. 12 CFR Parts 564 and 565, dealing respectively with settlement of insurance and termination of insurance, are amended to create new §§ 564.11 and 565.9, specifying that those Parts do not apply to FDIC-insured federal associations.

36. 12 CFR Part 569a, dealing with receivers of non-federally chartered insured institutions, is amended by changing the heading to reflect the existence of federal associations other than federal savings and loan associations, and by revising section 569a.1(a) to ensure the non-applicability of that section to federal savings banks.

37. Subchapter E, dealing with rules and regulations for federal mutual savings banks, and consisting of 12 CFR Parts 575, 576, 577 and 578, is removed as obsolete, after relocation of appropriate provisions elsewhere.

38. 12 CFR 583.5 is amended to indicate that an insured institution subsidiary of a savings and loan holding company may be engaging in the business of a savings bank as well as the business of a savings and loan association.

39. 12 CFR 583.6 is amended to include as insured institutions all federal associations insured by the FSLIC or the FDIC.

40. 12 CFR 583.7 is amended to specify that an uninsured institution does not include a federal association insured by the FDIC.

41. 12 CFR 584.1(e) is amended to inndicate that an insured institution may be engaging in the business of a savings as well as the business of a savings and loan association.

Consolidation of Applications

The Board has determined to amend 12 CFR Part 543 to consolidate applications provided for all de novo federal mutual associations. The amendments involve combining the Permission to Organize application and the Petition for Charter application. Formerly, associations had to go through a two-step procedure in order to receive a federal charter. The first step was an application for permission to organize a federal association, which required numerous procedures and conditions. Upon compliance with these conditions, the applicants then had to submit a second application for petition for charter. This application also required numerous procedures and conditions. In combining the two applications, the Board will expedite the application process, delete several unnecessary or duplicative conditions, and cause the application process to apply to all types of new federal charters.

Final Regulatory Flexibility Analysis

Although the regulations promulgated herein have not been proposed for public notice and comment, the Board is providing the following regulatory flexibility analysis:

1. *Reason, objective and legal basis underlying the final rule.* These elements are incorporated above in the supplementary information and definitional sections regarding the regulation.

2. *Small entities to which the final rule would apply.* The final rule would apply equally to all institutions chartered by the Board.

3. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap or conflict with the final regulation.

4. *Alternatives to the final rule.* To the extent that any institution determines to adopt a new charter, the final regulation would benefit its operations. Increased flexibility for all institutions will result from this regulation as well as increased powers for federal associations. The final regulation will not have a disproportionate impact on small institutions, and there is no alternative action that would change the impact of broadened chartering authority on small institutions.

List of Index Subjects in 12 CFR Parts 541, 543, 544, 545, 546, 547, 549, 552, 561, 563, 563b, 564, 565, 569a, 575, 576, 577, 578, 583 and 584

Savings and loan associations, Securities, Insurance, Holding companies.

The Board finds that the public notice and comment procedures of 5 U.S.C. 503(b) and 12 CFR 508.13 are unnecessary for the following reasons: (1) Immediate regulatory action is in the public interest in that the Congress expressly intended, in passing the Garn-St Germain Depository Institutions Act of 1982, that Federal associations and other thrift institutions exercise increased organizational flexibility to meet current, extremely stressful economic conditions, and it will increase the availability of this new power to federal associations; (2) Most federal associations have annual meetings in the first month of the calendar year, notice of which must go out to shareholders 15 to 45 days in advance, and any change in charter would of necessity need to be considered at such a meeting; (3) It will expedite the processing of applications for the several Federal charters; and (4) It will relieve restrictions. The Board further finds that delay of the effective date of this regulatory action pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary for the same reasons.

Since there are a large and complex number of changes in these regulations, the Board is soliciting comments from the public as to the effect of these regulations.

Accordingly, the Board hereby amends Part 523 of Subchapter B, Parts 541, 543, 544, 545, 546, 547, 549 and 552 of Subchapter C, Parts 561, 563, 563b, 564, 565, and 569a of Subchapter D, Parts 575, 576, 577 and 578 of Subchapter E, and Parts 583 and 584 of the Subchapter F, Chapter V of Title 12, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

1. Part 523 is amended by adding a new § 523.3–2, to read as follows:

§ 523.3–2 Delegations.

The Principal Supervisory Agent, as that term is defined in § 545.14(a)(3)(i) of

this Chapter, is authorized to approve unprotested applications for Bank membership filed by an entity which is eligible for such membership and which satifies the criteria therefor.

2. Amend paragraph (b) (1) of § 523.10 by removing the term "mutual".

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

Revise § 541.8 to read as follows:

§ 541.8 Federal association.

A savings and loan association or savings bank chartered by the Board under section 5 of the Act and, except as the Board may otherwise provide, any building and loan, savings and loan, building, or homestead association, organized or incorporated under the laws of the District of Columbia.

§ 541.8–1 [Amended]

4. Amend § 541.8–1 by removing the phrase "A savings and loan" and inserting in lieu thereof the word "An".

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

5. Amend § 543.1 by revising paragraph (b), as follows:

§ 543.1 Corporate title.

* * * * *

(b) *Title change.* Prior to changing its corporate title, an association must file with the Supervisory Agent a written notice indicating the intended change. The Supervisory Agency shall provide to the association a timely written acknowledgment stating when the notice was received. If, within 30 days of receipt of notice, the Supervisory Agent does not notify the association of his or her objection on the grounds set forth in paragraph (a) of this section, the association may change its title by amending its charter in accordance with § 544.2(i), or § 544.2–2, or § 552.4(c) and the amendment provisions of its charter, except that an association chartered as a Federal Savings and Loan Association may change its title to indicate that it is a Federal Savings Bank, and an association chartered as a Federal Savings Bank may change its title to indicate that it is a Federal Savings and Loan Association, only pursuant to a charter change under § 544.3 of this Chapter.

6. Amend § 543.2 by revising the third sentence of paragraph (b) and revising paragraph (g), as follows:

§ 543.2 Application for permission to organize.

* * * * *

(b) *Form; supporting information.* * * * The applicants shall request a corporate title to be approved by the Board and to be included as Section One of the association's charter. * * *

* * * * *

(g) *Approval.* Decisions on all applications for permission to organize a Federal association will be made by the Board. Approvals of applications will be conditioned on the following: (1) a minimum amount of capital to be paid into the association's accounts prior to insurance of accounts; (2) the submission of a statement that (i) the applicants have complied in all respects with the Act and these rules and regulations regarding organization of a Federal association; (ii) the applicants have incurred no expense in forming the association which is chargeable to it, and no such expense will be incurred; (iii) no money will be collected on account of the association before the Board issues its charter; (iv) an organization committee has been created (naming the committee and its officers); and (v) the committee will organize the association when the Board issues its charter and serve as temporary officers of the association until officers are elected by the association's board of directors under § 543.6 of this Part; and (3) the satisfaction of any other requirement the Board may impose. Approval of an application does not obligate the Board to issue a charter.

* * * * *

§ 543.3 [Removed effective December 15, 1982; see § 543.6(a).]

7. Remove § 543.3.

§ 543.4 [Removed effective Decmber 15, 1982; see § 543.3.]

8. Remove § 543.4.

9. Amend § 543.6 by revising paragraph (a), as follows:

§ 543.6 Completion of organization.

(a)(1) *Temporary officers.* When the Board approves an application for permission to organize a Federal association, the applicants shall constitute the organization committee and elect a chairperson, vice-chairperson, and a secretary, who shall act as the temporary officers of the association until their successors are duly elected and qualified. The temporary officers may effect compliance with any conditions prescribed by the Board.

(2) *Organization meeting.* Promptly upon receipt of a charter, the temporary officers shall call a meeting of the association's capital subscribers; notice of such meeting shall be mailed to each subscriber at least 5 days before the meeting day. Subscribers who have subscribed for a majority of the association's capital, present in person or by proxy, shall constitute a quorum. At such meeting, directors of the association shall be elected according to the association's charter and bylaws, and any other action permitted by such charter and bylaws may be taken; any such action shall be considered an acceptance by the association of such charter and of such bylaws, which shall be in the form provided in Parts 544 and 552 of this Subchapter.

* * * * *

10. Revise § 543.8 as follows:

§ 543.8 General.

(a) With the approval of the Principal Supervisory Agent, any member may, on such conditions as the Board may prescribe, convert itself into a Federal association, if it complies with all laws of its jurisdiction expressly providing for such conversions and with these rules and regulations.

(b) Questions regarding conversions shall be directed to the Board's Supervisory Agent of the district in which the applicant is located. Recommendations by Supervisory Agents and officers and employees of the Board regarding applications for issuance of Federal charters are privileged, confidential and subject to § 505.6 of this chapter.

11. Amend § 543.9 by revising the last sentence of paragraph (a), by revising paragraph (c), and by removing paragraph (d), as follows:

§ 543.9 Applications.

(a) *Filing.* * * * The applicant shall submit any financial statements or other information the Board or the Principal Supervisory Agent may require, and pay all costs, as determined by the Principal Supervisory Agent or the Board, of consideration of the application.

* * * * *

(c) *Action on application.* The Principal Supervisory Agent will consider such application and any information submitted therewith, and may approve the application. The Principal Supervisory Agent will not consider the application of a converting insititution not insured by the Federal Savings and Loan Insurance Corporation, except in the case of a saving bank insured by the Federal Deposit Insurance Corporation, until an eligibility examination has been completed to the satisfaction of the Federal Savings and Loan Insurance Corporation. Approval of an application and issuance by the Board of a charter

will be subject to the applicant's (1) compliance with all conditions prescribed in the approval; (2) receipt of approval of the plan of conversion by such vote as may be required by the laws of the applicant's jurisdiction to consider such action; and (3) approval of its application for Federal Home Loan Bank membership, if the applicant is not a member.

§ 543.10 [Removed]

12. Remove § 543.10.

13. Amend § 543.11 by redesignating it as § 543.10 and by revising the first sentence thereof, as follows:

§ 543.10 Organization after conversion.

Except as provided in § 543.11, after a Federal charter is issued under § 543.9 the association's members shall, after due notice, or upon a valid adjournment of a previous legal meeting, hold a meeting to elect directors and take all other action necessary fully to effect the conversion and operate the association in accordance with law and these rules and regulations. * * *

14. Add a new § 543.11 by inserting the text of § 576.4 thereto, revising paragraph (a) thereof, and changing the reference to "§ 576.4" in paragraph (c)(2) thereof to read "this section", as follows:

§ 543.11 Organization, plan for governance during first years after issuance of Federal mutual savings bank charter.

(a) *Organizational meeting.* Except as provided in paragraph (c)(1) of this section, promptly upon receipt of a charter, the officers of a Federal mutual savings bank which, immediately prior to conversion, was a state chartered mutual savings bank, shall call a meeting of the members. Notice for, and conduct of, such meeting shall be in accordance with the bank's Federal charter and bylaws. Business to be conducted at the organizational meeting shall include the election of trustees and any other matters permitted by the charter and bylaws. Any action taken at such meeting shall be deemed and acceptance of the charter and bylaws issued pursuant to § 544.2–2 of this Subchapter.

* * * * *

15. Add a new § 543.12, as follows:

§ 543.12 FDIC-insured Federal savings banks.

The Board may issue a Federal charter to a state-chartered savings bank which is insured or continues to be insured by the Federal Deposit Insurance Corporation.

17. Add a new § 543.13, as follows:

§ 543.13 Notice to FDIC.

Upon receiving an application for a Federal charter by an institution insured by the Federal Deposit Insurance Corporation, the Board shall notify the Federal Deposit Insurance Corporation, shall consult with it before disposing of the application, and shall notify it of the Board's determination with respect to such application.

PART 544—CHARTER AND BYLAWS

17. Amend § 544.1(a) by revising the first sentence of that paragraph; removing the term "Charter N" as the heading at the beginning of the charter form and replacing it with the term "Charter N (Rev.)"; removing the term "savings" wherever it appears in section 4 of the charter, other than in the first sentence, and wherever it appears in section 7 thereof; and revising the introductory text and subsection (6) of section 3, the first sentence of section 4, and the last sentence of section 10 of the charter; as follows:

§ 544.1 Issuance of charter.

(a) *Charter N (Rev.).* Except as provided in paragraph (b) of this section, when the Board approves an Application for Permission to Organize for a Federal mutual association that is a Federal savings and loan association, it shall issue a charter in the following form, or a form which includes any of the additional provisions set forth in § 544.2 if such provisions are specifically requested, known as Charter N (Rev.).

Charter N (Rev.)

* * * * *

3. *Purpose and Powers.* The purpose of the association is to pursue any or all of the lawful objectives of a Federal association; and in the accomplishment of such purpose, it shall have perpetual succession and power:

* * *

(6) To raise its capital, which shall be unlimited, by accepting payments on savings and demand accounts representing share interests in the association;

* * * * *

4. *Members.* All holders of the association's savings accounts and demand accounts and all borrowers therefrom are members. * * *

* * * * *

10. *Reserves, surplus and distribution of earnings.*

* * * All holders of savings accounts and demand accounts of the association shall be entitled to equal distribution of assets, pro rata to the value of their accounts, in the event of voluntary or involuntary liquidation, dissolution or winding up of the association.

* * * * *

18. Amend § 544.1(b) by revising the introductory text of that paragraph, and removing the term "Charter K (Rev.)" at the heading of the beginning of the charter form and replacing it with the term "Charter L", as follows:

§ 544.1 Issuance of charter.

* * * * *

(b) *Charter L.* If expressly requested in the Application for Permission to Organize, or in the Application for Conversion to a Federal Association, the Board will issue, in lieu of Charter N (Rev.), a Charter L. The form of Charter L is the same as the form of Charter N (Rev.), except that the heading states "CHARTER L" instead of "CHARTER N (REV.)" and in lieu of the provision in Charter N (Rev.) designated "6. *Withdrawals,"* the following provision is substituted:

Charter L

* * * * *

19. Amend § 544.1 by adding a new paragraph (c) entitled *Charter B (Rev.)* and inserting the text and charter form of § 577.1 thereto; removing the term "Charter B" as the heading at the beginning of the charter form and replacing it with the term "Charter B (Rev.)"; and amending that charter by removing the phrases "established for the primary purpose of providing people with a convenient and safe place to invest their funds and to provide for the financing of homes, and", and *"General Objects and"* contained in section 3, revising section 5 as set forth below, revising the first sentence of section 6 as set forth below and removing the word "savings" from section 6 wherever it appears other than in the first sentence, removing the phrase "in Board Resolution No. ——, dated ——, ——," in section 7 and substituting therefore the phrase "by the Board or its delegatee in connection with action", removing the phrase "charter: *Provided, however,* That the bank's equity, corporate bond, and consumer loan investments may in no event exceed —— percent of its assets." contained in section 10 and substituting therefor the phrase "charter."; removing in section 10 the phrase "Board Resolution No. —— dated ——" and substituting therefor the phrase "action of the Board or its delegatee in connection with action", removing from the third paragraph of section 11 the word "savings" and the phrase "[and checking accounts]" wherever they appear, and removing from section 11 the phrase "Board, such reserves shall include the reserve required for insurance of accounts." and inserting in its place the phrase "Board."; as follows:

§ 544.1 Issuance of charter.

* * * * *

(c) *Charter B (Rev.).*

* * * * *

Charter B (Rev.)

Section 5. *Capital.* The bank may raise capital by accepting payments on savings accounts and demand accounts and by any other means as may be authorized by the Board.

Section 6. *Members.* All holders of the bank's savings accounts and demand accounts and all borrowers therefrom are members. * * *

* * * * *

20. Amend § 544.2 by revising the introductory text; removing from paragraph (c) the word "savings"; removing from paragraph (f) the phrase "Charter N or Charter K (rev.)" and substituting therefor the words "Charter N (Rev.) or Charter L"; and removing from paragraph (i) the word "mutual" and substituting therefor the phrase "mutual savings and loan"; as follows:

§ 544.2 Amendment of charter.

This section constitutes approval by the Board of any of the following amendments to the charter of a Federal mutual savings and loan association:

* * * * *

§ 544.2–1 [Amended]

21. Amend § 544.2–1 by removing the title and text thereof and substituting therefor the title and text of § 577.1–1.

22. Add a new § 544.2–2, as follows:

§ 544.2–2 Preapproved charter amendment.

This section constitutes approval by the Board of the amendment of section 1 of the Federal mutual savings bank charter to effect the change of the corporate title of a Federal mutual savings bank that has complied with § 543.1(b) of this Subchapter.

23. Revise § 544.3, as follows:

§ 544.3 Adoption of new Federal charter by a Federal association.

If the board of directors of a Federal mutual association proposes to amend its charter to read in the form of any other Federal mutual association charter, the amendment may be approved by a majority vote of members present at any duly called regular or special meeting of members. In the case of a Federal stock association, the board of directors of which proposes to amend its charter to read in the form of any other Federal stock association charter, the amendment may be approved by the stockholders by a majority of the total votes eligible to be cast at a legal meeting. In either case, after such vote, the association shall submit the following petition to the Principal Supervisory Agent, together with any requested change in the association's title or location of home office, and the Board thereafter will issue a charter in the form sought, upon approval by the Principal Supervisory Agent or the Board of a change in such name or location:

Federal Home Loan Bank of ———————
[City] ———————
[State] ———————

The undersigned, under § 544.3 of the rules and regulations for the Federal Savings and Loan System, petitions the Federal Home Loan Bank Board to issue to it a charter in the form of Charter ——, fixing the name of the undersigned as ————, and its home office at ————. The present charter fixes the name of the association as ———— and its home office location as ————.

The undersigned, by its secretary, hereby certifies that the members or stockholders, at a meeting duly called and held, adopted the following resolution:

Be it resolved, That the present charter of this association be amended to read in the form of Charter ———— as prescribed in the rules and regulations for the Federal Savings and Loan System, prescribing the name of the association as ———— and fixing its home office location as ————.

In witness whereof, the Secretary of the undersigned has hereunto affixed his hand and the seal of the undersigned this —— day of ————, 19—.

———————————

[Name of Federal Association]
By ———————————
[Corporate Seal]

24. Amend § 544.5 by revising the introductory text, as follows:

§ 544.5 Prescribed form.

A Federal mutual savings and loan association shall operate under the following bylaws, until such bylaws are amended under the procedure therein presecribed.

* * * * *

25. Add a new "§ 544.5–1" by inserting the title and text of § 577.2, removing the term "§ 577.2" wherever it appears therein and substituting therefor the term "§ 544.5–1", and revising the introductory text, as follows:

§ 544.5–1 Prescribed form.

Unless otherwise authorized by the Board, a Federal mutual savings bank shall operate under the following bylaws until such bylaws are amended under the procedure therein prescribed.

* * * * *

26. Add a new § 544.8, as follows:

§ 544.8 References to old and new charters; rules applicable to trustees of Federal mutual savings banks.

(a) References in the Rules and Regulations for the Federal Savings and Loan System to associations with a Charter K (Rev.) or Charter N shall be deemed as also referring respectively to associations with a Charter L or Charter N (Rev.) and, other than in § 545.4 of this Subchapter, as also referring to associations with a Charter B or Charter B (Rev.).

(b) The trustees of each Federal mutual savings bank shall be subject to the Rules and Regulations for the Federal Savings and Loan System (Part 541 et seq. of this Subchapter), the Regulations for the Federal Home Loan Bank System (Part 521 et seq. of this Chapter), and the Rules and Regulations for Insurance of Accounts (Part 561 et seq. of this Chapter), insofar as they pertain to directors of Federal associations, just as if they were directors.

27. Add a new § 544.9, as follows:

§ 544.9 Obsolete charter provision for Charter B associations.

The standard provision in section 10 of Charter B relating to limiting equity, corporate bond and consumer loan investments to a particular percentage of assets is of no force and effect.

PART 545—OPERATIONS

28. Amend § 545.25–1 by revising paragraph (a) as follows:

§ 545.25–1 Employment contracts.

(a) *General.* A Federal savings and loan association with bylaws amended under § 544.6(k), a Federal mutual savings bank or a Charter S or Charter T association, upon specific approval of its board of directors, may enter into employment contracts with its officers and other employees in accordance with § 563.39 of this Chapter.

* * * * *

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

29. Amend § 546.1 by revising paragraph (a) as follows:

§ 546.1 Definitions.

As used in §§ 546.2 and 546.3—

(a) "Association" means a Federal association, or interim Federal association, a national bank, and any building and loan, savings and loan, or homestead association, or cooperative bank, or interim state institution, or commercial or industrial bank organized under the laws of any state which may, under those laws, or other applicable law, merge or consolidate with a Federal association.

* * * * *

30. Amend § 546.2 by revising paragraph (a), as follows, and by

removing in paragraph (g) the word "created" and substituting therefor the phrase, "created, if applicable, or any other applicable law":

§ 546.2 Procedure; effective date.

(a)(1) A Federal association insured by the Federal Savings and Loan Insurance Corporation and one or more other associations so insured may merge as prescribed in this Part if, as to any association which is not a Federal association, the merger is in accordance with the laws of the jurisdiction in which the association was organized.

(2) A Federal association insured by the Federal Deposit Insurance Corporation and any one or more other institutions so insured may merge as prescribed in this Part if, as to any such institution which is not a Federal association, the merger is in accordance with the laws of the jurisdiction in which the association was organized, if applicable, and such other laws as may be applicable.

(3) A Federal association insured by the Federal Deposit Insurance Corporation and any one or more other associations insured by the Federal Savings and Loan Insurance Corporation may merge as prescribed in this Part, subject to the prior approval of the Federal Deposit Insurance Corporation, and if, as to any association which is not a Federal association, the merger is in accordance with the laws of the jurisdiction in which the association was organized.

* * * * *

31. Remove § 546.5.

§ 546.5 Conversion from Federal mutual to state-charter mutual. [Removed effective December 15, 1982.]

PART 547—APPOINTMENT OF CONSERVATORS AND RECEIVERS

32. Amend § 547.3 by adding a second sentence, as follows:

§ 547.3 Appointment on other grounds.

* * * In the event a Federal association insured by the Federal Deposit Insurance Corporation has its insured status terminated by the Board of Directors of said Corporation, the Board shall appoint the Federal Deposit Insurance Corporation receiver for that association.

33. Revise § 547.6, as follows:

§ 547.6 Federal Savings and Loan Insurance Corporation or Federal Deposit Insurance Corporation as receiver.

The Board shall appoint only the Federal Savings and Loan Insurance Corporation as receiver for a Federal association which that Corporation insures. The Board shall appoint only the Federal Deposit Insurance Corporation as receiver for a Federal association which that Corporation insures.

PART 549—POWERS OF RECEIVERS AND CONDUCT OF RECEIVERSHIP

34. Amend § 549.1 by revising paragraph (b) as follows:

§ 549.1 Definitions.

* * * * *

(b) "Corporation" means the Federal Savings and Loan Insurance Corporation, except when the Federal Deposit Insurance Corporation is receiver, in which case it means the Federal Deposit Insurance Corporation.

35. Revise § 549.2 as follows:

§ 549.2 Procedure upon taking possession.

The procedure prescribed in § 548.1 of this Subchapter for a conservator taking possession of a Federal association shall also apply to a receiver except that the notice required by § 548.1(c) shall state:

———Federal Savings and Loan Association [or Federal Savings Bank],———, ———, ———, is in the hands of the Federal Savings and Loan Insurance Corporation [or Federal Deposit Insurance Corporation] as receiver appointed by the Federal Home Loan Bank Board.

Federal Savings and Loan Insurance Corporation [or Federal Deposit Insurance Corporation] as Receiver.

By _____

Title _____

Date _____

36. [Revise paragraph (b)(3) of § 549.3, as follows:

§ 549.3 Powers and duties of receiver.

* * * * *

(b) * * *

(3) Deposit funds collected in any bank(s) insured by the Federal Deposit Insurance Corporation, in a Bank, or any other depository institutions approved for that purpose by the Board. All depository bank accounts of the receiver shall be carried as follows: "Federal Savings and Loan Insurance Corporation [or Federal Deposit Insurance Corporation], Receiver for ——— Association";

* * * * *

§549.5–1 [Amended]

37. Amend § 549.5–1 by adding the phrase "or a Federal savings bank" immediately after the word "association" the second time it appears in paragraph (a) thereof; , and amend subparagraph (1) of paragraph (b) thereof by adding in the first sentence the phrase "demand accounts" immediately prior to the word "savings" the first time it appears, adding in the fourth sentence the phrase "demand account," immediately prior to the word "savings" the first time that word appears, and adding in the fifth sentence the phrase"demand account, holder of a" immediately prior to the word "savings" the first time that word appears; and amending paragraph (c) thereof by adding in subparagraph (1) the phrase "demand accounts," immediately prior to the phrase "savings accounts" wherever the latter phrase appears, adding in subparagraph (2) the phrase "demand accounts," immediately prior to the phrase "savings deposits," adding in subparagraph (3) the phrase "demand account," immediately prior to the phrase "savings deposit", and adding in subparagraph (4) the phrase "demand accounts," immediately prior to the term "savings deposits".

PART 552—STOCK ASSOCIATIONS

38. Amend § 552.1 by revising the introductory test, redesignating paragraph (b) as paragraph (c) thereof, and adding a new paragraph (b) thereto, as follows:

§ 552.1 Definitions.

All references in this Subchapter to the following terms shall, with respect to an association with a charter in the form of Charter S or Charter T, have the meaning defined herein.

* * * * *

(b) *Charter T association.* The term "Charter T association" means a Federal savings bank which has its charter in the form of a Charter T. References in this Chapter to Charter S associations or Charter S shall be deemed also as referring respectively to Charter T associations or Charter T.

* * * * *

39. Amend § 552.2–1 by removing the last sentence and revising the first sentence thereof, as follows:

§ 552.2–1 Conversion from state stock to Federal stock charter.

With the approval of the Principal Supervisory Agent or, in connection with a supervisory transaction, with the approval of the General Counsel, any state stock savings and loan association type or state stock savings bank type institution may convert to a Federal stock savings and loan association or a Federal stock savings bank, subject to its compliance with the requirements set forth in §§ 543.8 through 543.10 of this Subchapter governing conversion to a Federal mutual association and its submission of an opinion by independent local counsel within six

months from the date of the approval that the conversion is in conformance with applicable state law. * * *

§ 552.3 [Amended]

40. Amend paragraph (a) of § 552.3 by adding the phrase "or Charter T" immediately after the phrase "Charter S".

41. Amend § 552.3 by revising paragraph (b) and adding a new paragraph (c), as follows:

§ 552.3 Issuance of charter.

* * * * *

(b) A Charter S or Charter T in the following form shall be issued to a state stock institution which has converted respectively to a Federal stock savings and loan association or a Federal stock savings bank pursuant to § 552.2–1, except that in a case not involving an association that has converted from mutual to stock form, Section 7 of Charter S or Charter T requiring a liquidation account and all references thereto shall be deleted, Sections 8 and 9 shall be redesignated Sections 7 and 8 respectively, and the optional provision contained in § 552.4(b) of this Part shall not be available.

(c) Where a Charter T is issued, all references in the following form to "Charter S" shall be changed to "Charter T", all references to "Federal Savings and Loan Association" shall be changed to "Federal Savings Bank" and all references to "association" shall be changed to "bank", and the following sentence shall be added to the end of Section 3: "In addition, the bank may make any investment and engage in any activity as may be specifically authorized by action of the Board or its delegatee in connection with action approving the issuance of the charter."

42. Revise § 552.9, as follows:

§ 552.9 Investments, services and borrowings.

A Charter S association may: (a) Make any loan or investment authorized by this Subchapter for a Charter N (Rev.) association; (b) be surety and perform such services as are authorized by this Suchapter for a Charter N (Rev.) association; and (c) borrow, issue obligations, and give security to the same extent authorized by this Subchapter for a Charter N (Rev.) association which has amended its charter under § 544.2(f) of this Subchapter. A Charter T association, in addition to the above, may utilize any authority permitted by this Subchapter for Charter T associations.

43. Amend § 552.13 by revising paragraphs (b)(1), (c) (1) and (2), (d) and (e), as follows:

§ 552.13 Combinations involving Charter S associations.

* * * * *

(b) *Definitions.* * * *

(1) *Association.* Any building and loan, savings and loan, or homestead association, or commercial, industrial, cooperative or savings bank organized under Federal or state law, including interim Federal associations and interim state associations.

* * * * *

(c) *Forms of combination.* * * *

(1) Mergers or bulk purchases of assets in exchange for assumption of liabilities: *Provided,* That (i) all constituent associations have accounts insured by the Federal Savings and Loan Insurance Corporation, except that in combinations involving a Federal association insured by the Federal Deposit Insurance Corporation, all constituent associations have accounts insured either by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, and (ii) if any constituent is a mutual association, the resulting association shall be mutually held, except in cases involving supervisory mergers, mergers approved under Part 563b of Subchapter D or mergers in which one of the constituents is an interim Federal association or an interim state institution.

(2) Consolidations among Federal associations resulting in Federal mutual associations.

(d) *Agency approval.* Prior written approval of the Board is required for every combination. In determining whether to confer such approval, the Board shall apply the criteria set out in § 571.5 of this Chapter. Prior written approval of the Federal Deposit Insurance Corporation is required for every combination involving both a Federal association insured by the Federal Deposit Insurance Corporation and an association not insured by such Corporation.

(e) *Approval of board of directors.* Before filing for Board approval, the combination shall be approved by each constituent association's board of directors: (1) By a two-thirds vote of the entire board of each Federal association, and (2) as required by state law, or other applicable law, for other constituents.

* * * * *

§ 552.13 [Amended]

44. Amend paragraph (l) of § 552.13 by inserting before the period at the end of the third sentence and the following ", or other applicable law".

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

45. Revise § 561.1, as follows:

§ 561.1 Insured institution.

An "insured institution" is a Federal savings and loan association or Federal savings bank, an interim Federal association, a building and loan, savings and loan, or homestead association, or a cooperative bank, or an interim state institution, whose accounts are insured by the Federal Savings and Loan Insurance Corporation, referred to in this Subchapter as the "Corporation". The Federal Home Loan Bank Board is referred to in this Subchapter as the "Board". Except where otherwise noted, the term "insured institution" shall also be deemed to refer to a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation.

46. Amend § 561.2 by revising the first sentence, as follows:

§ 561.2 Insured member.

The term "insured member" means a holder of an account or accounts in an insured institution, other than a Federal association insured by the Federal Deposit Insurance Corporation.

* * * * *

42. Amend § 561.11 by inserting before the period at the end thereof the following: "or held by insured depositors in a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation".

PART 563—OPERATIONS

§ 563.7–1 [Amended]

48. Amend § 563.7–1 by removing the phrase "savings and loan" the first time it appears.

§ 563.7–4 [Amended]

49. Amend the first sentence of paragraph (a) of §§ 563.7–4 by removing the phrase "insured mutual institution" and adding in its place the phrase "insured institution that is in the mutual form".

§ 563.14 [Amended]

50. Amend § 563.14 by adding the word "insured" immediately before the word "institution" wherever the latter word appears, and by adding the phrase "or other account holders" immediately after the phrase "insured members" wherever the latter phrase occurs.

51. Amend § 563.15 by adding a new paragraph (c), as follows:

§ 563.15 Insurance premiums.

* * * * *

(c) *FDIC-insured Federal associations.* As used in this section, the term "insured institution" shall not refer to a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation.

§ 563.16 [Amended]

52. Amend § 563.16 by adding in the first sentence, immediately after the term "insured institution" the first time it appears, the phrase "(which, for the purposes of this section, shall not include a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation)".

53. Revise § 563.28, as follows:

§ 563.28 Advertising of insurance of accounts.

An insured institution, other than a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation, may advertise itself as a "member" of the Federal Savings and Loan Insurance Corporation.

54. Revise paragraph (a), the introductory text of (b) and (b)(1) of § 563.31, as follows:

§ 563.31 Other insurance or guaranty.

(a) *General rule.* An insured institution may not acquire any insurance on, or guaranty of, all or any part of its insured accounts in addition to the insurance provided in Title IV of the National Housing Act, other than a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation, and a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation shall not acquire any insurance on, or guaranty of, all or any part of its deposits insured thereby in addition to the insurance provided by the Federal Deposit Insurance Corporation.

(b) *Exceptions.* Paragraph (a) of this section notwithstanding: (1) A Federal association may give bond or security pursuant to § 545.24–2 of this Chapter;

* * * * *

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

55. Revise paragraph (b)(4) of § 563b.3, as follows:

§ 563b.3 General principles for conversions.

* * * * *

(b) *General requirements.* * * *

(4) The converted institution would not have its accounts insured by the Corporation, except in the case of a Federal association insured by the Federal Deposit Insurance Corporation.

* * * * *

§ 563b.4 [Amended]

56. Amend clause (xiv) of paragraph (a)(4) of § 563b.4 by inserting, immediately after the word "Corporation", the following: ", or, in the case of a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Federal Deposit Insurance Corporation".

57. Amend paragraph (b) of § 563b.4 by revising the heading for the notice to read as follows: "Notice of Filing of an Application for Conversion to Convert to a Stock Savings and Loan Association or a Stock Savings Bank".

58. Revise the first sentence of subparagraphs (2) and (3) of paragraph (d) of § 563b.8, as follows:

§ 563b.8 Procedural requirements.

* * * * *

(d) *Termination or amendment of charter.* * * *

(2) A mutual association converting to a Federal stock association shall apply to amend its charter and bylaws to read in the form of a charter and bylaws for a Charter S or Charter T association. * * *

(3) The corporate existence of a mutual association converting to a Federal stock association shall not terminate, but the converted association shall be deemed to be a continuation of the entity of the association so converted. * * *

* * * * *

PART 564—SETTLEMENT OF INSURANCE

59. Add a new § 564.11, as follows:

§ 564.11 FDIC-insured Federal associations.

Federal associations the deposits of which are insured by the Federal Deposit Insurance Corporation are not deemed to be insured institutions for the purposes of this Part.

PART 565—TERMINATION OF INSURANCE

60. Add a new § 565.9, as follows:

§ 565.9 FDIC-insured Federal associations.

Federal associations the deposits of which are insured by the Federal Deposit Insurance Corporation are not deemed to be insured institutions for the purposes of this Part.

PART 569a—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL SAVINGS AND LOAN ASSOCIATIONS

61. Amend the heading of Part 569a removing the phrase "SAVINGS AND LOAN".

§ 569a.1 [Amended]

62. Amend paragraph (a) of § 569a.1 by adding the phrase "or Federal savings bank" immediately after the word "association" wherever that word appears.

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

63. Remove Subchapter E in its entirety, to read as follows: Subchapter E—Rules and Regulations for Federal Mutual Savings Banks [Removed effective December 15, 1982.]

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 583—DEFINITIONS

§ 583.5 [Amended]

64. Amend § 583.5 by adding the phrase "or savings bank" immediately after the phrase "savings and loan".

§ 583.6 [Amended]

65. Amend § 583.6 by removing the term "savings and loan" the first time it appears, and by inserting before the period at the end thereof the following: ", and any Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation".

§ 583.7 [Amended]

66. Amend § 583.7 by inserting before the period at the end thereof the following: ", but does not mean a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation".

PART 584—REGULATED ACTIVITIES

67. Amend paragraph (e) of § 584.1 by adding the phrase "or savings bank" immediately after the phrase "savings and loan" the second time the latter phrase appears.

(Sec. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464,); Sec. 401, 402, 403, 405, 406, 407, 48 Stat. 1255, 1256, 1257, 1259, 1260, as amended (12 U.S.C. 1724, 1725, 1726, 1728, 1729, 1730); Sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board
J. J. Finn,
Secretary.

[FR Doc. 82-34448 Filed 12-21-82; 8:45 am]
BILLING CODE 6720-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 15, 16, 18, 21, 32, 33, 145, 147, 155, 170 and 180

Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program To Include Options on Physicals

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: This Commodity Futures Trading Commission ("Commission") has previously adopted regulations to govern a three-year pilot program under which options on certain commodity futures contracts will be permitted to be traded on and through the facilities of domestic boards of trade designated by the Commission as contract markets for options trading. The Commission indicated at the time that it intended to supplement those rules with rules authorizing the trading of options on physicals on presently-designated contract markets and on other boards of trade which may qualify for designation to trade such options. The Commission has now adopted rules which, subject to review by the Commission's Congressional oversight committees pursuant to Section 4c(c) of the Commodity Exchange Act, authorize the trading of options on physicals, thereby completing this first phase of the pilot program. The new rules allow any domestic board of trade, regardless of whether it is currently engaged in the trading of futures contracts or options on those contracts, to apply for contract market designation for one option on a physical. The Commission is also amending a number of other rules, which apply to futures contracts and to options on futures contracts, for purposes of clarification as well as to include appropriate references to option transactions.

EFFECTIVE DATE: Except as specified herein, the rules will become effective January 21, 1983. The amendments to §§ 1.3(*ll*), 33.4, 33.6, and 33.7 (except §§ 33.7(b)(2)(viii), (c), (d)) will become effective upon the expiration of 30 calendar days of continuous session of Congress after the transmittal of those rules, and related materials, to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry pursuant to Section 4c(c) of the Commodity Exchange Act, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Special Counsel, or Kenneth M. Rosenzweig, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Telephone: (202) 254-8955. For information concerning amendments to 17 CFR Parts 15-18 and 21, contact: Lamont L. Reese, Associate Director, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-3310.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 3, 1981, the Commission published regulations to establish a three-year pilot program for the trading, on domestic exchanges, of options on certain commodity futures contracts. 46 FR 54500. Those rules, however, did not authorize or otherwise directly apply to options on actual commodities ("physicals"). The Commission noted at that time that it was "exercising only one aspect of its jurisdiction with respect to options" [1] and, on the same date, published a separate notice of proposed rulemaking in which it reaffirmed its intention to adopt rules which would permit the trading of options on physicals. 46 FR 54570.

The Commission received nineteen comments in response to that notice. Only three of those comments, however, offered specific suggestions as to how the Commission's rules should be amended to include options on physicals. In an effort to engender as much public participation as possible, the Commission thereafter published for public comment proposed rules which would further amend the Commission's regulations to accommodate options on physicals and to make minor clarifying and conforming changes to certain of the Commission's other regulations. 47 FR 28401 (June 30, 1982).

The Commission received seventeen comment letters in response to its June 1982 proposal. The commentors included six contract markets, three securities exchanges which list stock options for trading, five futures commission merchants ("FCMs"), a trade association, a law firm, and the National Futures Association. The Commission has carefully considered those comments, as well as the comments it received in response to the regulations proposed in June 1981 to establish the option pilot program [2] and its November 3, 1981 notice of proposed rulemaking and, as is discussed in greater detail below, has determined to adopt regulations which will permit any board of trade—irrespective of whether it is presently designated as a contract market for futures trading or for options on futures contracts—to apply for designation as a contract market for the trading of one option on a physical. These regulations also permit, in appropriate cases, the "cash settlement" of options on physicals.

II. Completion of the First Phase of the Pilot Program

When the Commission proposed rules to incorporate options on physicals within the scope of the pilot program, it proposed to allow any board of trade meeting the requirements of the Act and the Commission's regulations to apply for designation to trade one option on a physical.[3]

Three commentators supported the Commission's proposal on the grounds that the inclusion within the pilot program of boards of trade that are not presently designated as contract markets would enhance competition and the quality of the data generated by the pilot program. A fourth commentator disagreed, stating that such a previously-undesignated board of trade would be unable to monitor the interaction of prices for the option and the related futures contract and that the activities of persons not subject to the jurisdiction of the contract market designated to trade the related futures contract could adversely affect the operations of that contract market. The Commission has considered these comments, as well as the comments it has received in response to earlier requests for comments on this question.[4]

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[1] *Id.* at 54501.

[2] *See* 46 FR 54570, 54571 n.2 (November 3, 1981), referring to 46 FR 33293 (June 29, 1981).

[3] Proposed § 33.4(a)(6). By comparison, before it may be designated as a contract market for options on a futures contract, § 33.4(a)(3) specifies that a board of trade must first be designated as a contract market for that underlying futures contract.

[4] In connection with its June 1981 proposal to establish a pilot program for options trading and subsequently, in a notice of proposed rulemaking relating solely to options on physicals, the Commission requested comments as to whether it should restrict the trading of options on physicals to those boards of trade which are designated as a contract market for a futures contract which draws on the same deliverable supply as the proposed option on a physical. 46 FR 33293, 33295 (June 29, 1981); 46 FR 54570, 54571 (November 3, 1981).

and has determined not to preclude previously undesignated boards of trade from participating in this portion of its pilot program.

Although, as noted earlier, a board of trade must be designated as a contract market for futures trading before it may be designated for the trading of options on that futures contract, the Commission is not convinced that similar restrictions are necessary with respect to options on physicals. In this regard, the Commission notes that all contract markets—whether designated for futures contracts, options on futures contracts, or options on physicals—must conduct regular and continuous surveillance of the underlying cash market.[5] A contract market which has been designated for a futures contract involving a commodity which also underlies an option on a physical would have market surveillance responsibilities which are essentially no different from its present obligation to monitor activity in the cash market underlying the futures contract. Thus, the Commission does not believe that any regulatory benefits would be achieved by limiting involvment in this portion of the pilot program to those exchanges and FCMs which are already participating in that program.[6]

The Commission also proposed to limit each exchange to no more than one option on a futures contract and one option on a physical. Proposed § 33.4(a)(6). In seeking to determine the appropriate scope of the pilot program, however, the Commission specifically requested comments as to whether it should nonetheless allow each exchange to trade any two option contracts, regardless of whether those option contracts would involve options on futures contracts, options on physicals, or one of each type of option. 47 FR at 28404.

The Commission received a wide range of comments on this question. A number of the commentators urged the Commission to allow the exchanges to select either two options on futures or two options on physicals. These commentators maintained that the regulatory burdens on the Commission and on the exchanges would not be significantly greater if the Commission were to allow such an election rather than limit further expansion of the pilot program to one option of each type. One of these commentators further stated that inasmuch as Section 15 of the Commodity Exchange Act ("Act") (7 U.S.C. 19) directs the Commission to endeavor to use the least anticompetitive means of accomplishing its objectives, the Commission should allow the exchanges to decide how to allocate the permitted number of option contracts between options on futures and options on physicals in order to develop whichever contract a particular exchange believed would be most economically viable. Other commentators, concurring in the Commission's decision to proceed cautiously with any expansion of the pilot program, urged the Commission to adhere to its proposal and allow only one option of each type. Finally, one commentator suggested that the Commission defer any measures which would permit the trading of options on physicals and instead, expand the pilot program solely to allow each qualifying exchange to offer two options on futures contracts.

The Commission has stated, both in the **Federal Register** releases accompanying the proposed and final regulations for exchange-traded options[7] and in the materials submitted to Congress pursuant to Section 4c(c), that it intends to proceed with due caution in any expansion of the option pilot program. After careful consideration of all the comments and other relevant factors, the Commission has decided to broaden the pilot program no further than is necessary to allow each qualifying exchange to be designated solely for one option on a futures contract and one option on a physical.[8] Although the unique attributes of options on physicals[9] will complement the Commission's assessment of the use and market performance of option contracts, the Commission has chosen to proceed in a controlled and orderly manner until both the Commission and the exchanges have had greater experience with the trading of options under the pilot program. The Commission thus views the adoption of rules implementing the inclusion of options on physicals as constituting the completion of the first phase of the option pilot program.[10] The Commission believes that the primary goal of the option pilot program—the development of data and information which will permit the Commission to determine whether and under what conditions options trading should be allowed to continue after the pilot program has terminated[11]—are best served, at least at this juncture, by this balanced approach.

This Commission is, of course, cognizant of its responsibilities under Section 15 of the Act. Section 15, however, does not require the Commission to subordinate the policies and purposes of the Act to those of the antitrust laws. Section 15 requires only that the Commission, in achieving the goals and policies of the Act, consider the public interest served by the antitrust laws and endeavor to use the least anticompetitive means available. Limitations of the type now being adopted by the Commission are, of course, inherent in an experimental pilot program. Moreover, Section 15 does not require the Commission to adopt the least anticompetitive course of action where the objectives, policies and purposes of the Commodity Exchange Act would be better served in some other way.[12] The Commission further

[5] *See, e.g.*, Commission rule 1.51(a)(1), 17 CFR 1.51(a)(1).

[6] The Commission expects that boards of trade which have not previously been designated as, or applied for designation as, contract markets for the trading of options on futures contracts will apply for designation for options on physicals. Because § 33.3(b)(1) presently restricts the solicitation and acceptance of option customers' orders to those FCMs which are members of the contract market on which the option is traded, the Commission expects that the participation in the pilot program of additional exchanges should further broaden the number of FCMs who may offer at least one commodity option to option customers.

[7] *See, e.g.*, 47 FR 28401, 28404 (June 30, 1982); 46 FR 54500, 54501–02 (November 3, 1981); 46 FR 33293, 33294, 33295 (June 29, 1981).

[8] By letter dated December 9, 1981, the Board of Trade of the City of Chicago ("CBT") petitioned the Commission to repeal regulation 33.4(a)(4) which, at the time that petition was submitted, prevented a board of trade from being designated as a contract market for more than one option on a futures contract and, in particular, precluded the CBT from applying for contract market designation for options on Government National Mortgage Association collateralized delivery receipt futures contracts. In amending § 33.4 to allow the boards of trade to be designated solely for one option of each type, the Commission has considered the views of the CBT in support of its petition. The petition of the CBT has been denied to the extent that the CBT would seek authority to trade more than one option on a future contract or one option on a physical.

[9] For example, and as discussed elsewhere in this **Federal Register** release, the Commission has declined to require a limited period (or a single date) for the exercise of options on physicals. As a result, unlike futures contracts which have a much more limited delivery period, options on physicals could be exercised at any time prior to expiration.

[10] The Commission has previously indicated, both in the **Federal Register** notice announcing the adoption of the pilot program regulations and in the materials provided to the Commission's Congressional oversight committees pursuant to Section 4c(c) of the Act (7 U.S.C. 6c(c)), that it intended to supplement the pilot program regulations to permit the trading of options on physicals.

[11] 46 FR 33293, 33294 (June 29, 1981).

[12] *British American Commodity Options Corp.* v. *Bagley*, Comm. Fut. L. Rep. (CCH) § 20,245 at 21,334 (S.D.N.Y. December 21, 1976), *aff'd in part and rev'd in part on other grounds*, 552 F. 2d 482 (2d Cir.), *cert. denied*, 434 U.S. 938 (1977).

believes that these restrictions are reasonable and necessary if it is to limit appropriately the phased expansion of the pilot program. The Commission nonetheless intends to monitor closely all facets of option trading under the pilot program and will use the experience gained as a result of that review to determine if further expansion of the pilot program should be permitted.[13]

When it adopted regulations governing the trading of options on futures contracts, the Commission indicated that it would simultaneously review all option designation applications which were received by a specified date. The Commission has decided, however, that this approach is unnecessary to this completion of the first phase of the pilot program and therefore, will consider applications for contract market designation for the trading of options on physicals in accordance with the policies and practices that normally apply to such applications.[14]

Although the preponderance of the rules which the Commission is now adopting will become effective thirty days after publication of this **Federal Register** notice, certain of those rules which relate specifically to the trading of options on physicals will not become effective until after the conclusion of the Congressional review period specified in Section 4c(c) of the Act. Thus, although the Commission will accept applications for contract market designation made in accordance with these rules at any time, it will not designate any board of trade as a contract market for the trading of options on physicals until such time as the Commission provides notice in the **Federal Register** that those latter rules have been transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry in accordance with the requirements of the Act and have thereafter been declared by the Commission to be effective.

III. Commodity Option Transactions

The Commission proposed to define the term "physical" principally to enable the Commission to differentiate, where necessary, between references in its regulations to options on physicals and options on futures contracts. One commentator noted that the proposed definition could apply to certain transactions which would be excluded from the Commission's jurisdiction upon the passage of legislation affecting the respective jurisdictions of the Commission and the Securities and Exchange Commission. As the Commission stated in the **Federal Register** release accompanying the proposed regulations, the definition of "physical" is intended to be coextensive with the Commission's jurisdiction with respect to commodity options and would therefore be limited by any statutory limitation of the Commission's authority with respect to options on securities or exempt securities. 47 FR 28401, 28402 (June 30, 1982). Section 1.3(11) is therefore being adopted without change.

The Commission proposed to amend § 33.4(a)(3), which relates to demonstrations by applicant exchanges of continued compliance with the requirements for contract market designation, to make the requirements of that section applicable solely to options on futures contracts. The Commission also proposed to establish a comparable rule (§ 33.4(a)(4)) for those boards of trade which are already designated as a contract market for futures contracts or options on futures contracts and which are applying for contract market designation for options on physicals. One commentator, noting that neither rule would apply to an applicant board of trade which is not yet designated as a contract market for either futures contracts or options on futures contracts, suggested that the Commission rectify this apparent disparity. As the Commission indicated when it proposed these rules, however, such a board of trade still would be required to demonstrate compliance with the requirements of Sections 5 and 5a of the Act (7 U.S.C. 7, 7a) as part of its initial application. The Commission is, therefore, adopting §§ 33.4(a) (3) and (4) without change.

Compliance with the conditions and requirements of Sections 5 and 5a of the Act would also entail compliance with, *inter alia*, Commission rules 1.51 and 1.52 (17 CFR 1.51, 1.52). Thus, the Commission notes that although the references to § 1.50 (17 CFR 1.50) contained in §§ 33.4(a) (3) and (4) necesarily would apply only to boards of trade already designated for futures or option trading in the commodity which is the subject of the application, the Commission will evaluate especially carefully any exchange's application for contract market designation for option trading where the Commission's experience with that exchange indicates that the exchange is not satisfactorily discharging its self-regulatory responsibilities under the Act and the regulations thereunder. (Of course, nothing in § 33.4(a) (3) or (4) limits the Commission's authority to make a "§ 1.50 call" with respect to any designated futures or option contract.) Similarly, the Commission would in appropriate cases consider any disciplinary actions against or sanctions imposed on an applicant by the Securities and Exchange Commission as bearing upon the board of trade's ability and willingness to comply with the requirements of the Act and the Commission's regulations.

Sections 33.4(a)(1)(ii) specifies that options on futures contracts may be exercised only by the establishment, by book entry, in the clearing organization of positions in the underlying futures contract. By comparison, the Commission's June 30, 1982 proposal did not include any restrictions on the delivery mechanism for options on physicals. Instead, the Commission announced its intention, should the proposed regulations be adopted, to "consider applications for contract market designation which provide for cash settlement in lieu of actual delivery of [the] underlying physical in the event of exercise of an option on a physical." 47 FR at 28403. In this regard, the Commission noted that cash settlement of options on physicals might be appropriate in certain circumstances, such as where cash settlement would reduce the possibility of disruption of either the cash or futures markets or facilitate trading in the option itself.

The Commission received three comments on this issue. Two commentators suggested that cash settlement should not be permitted at all while the other commentator stated that cash settlement should be permitted only where the related futures contract is settled in cash. One of these commentators further stated that a central issue in the evaluation of options on physicals is the reliability and accessibility of cash market price quotations.

The Commission has decided, after careful review of the comments, to neither prohibit nor require cash

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[13] Legislation now pending in Congress (H.R. 5447 and S. 2109) would remove the ban, contained in Section 4c of the Act (7 U.S.C. 6c), on options involving the commodities specifically enumerated in Section 2(a)(1) of the Act (7 U.S.C. 2). If that legislation is enacted, the Commission's experience with trading under the pilot program will be of significance to Commission decisions on the appropriate regulatory framework for such options.

[14] Section 33.5(c) provides, in pertinent part, that contract market designations for option trading "shall be for a period not to exceed three years * * * or such shorter period as the Commission may specify. * * *" Because the pilot program will terminate, unless otherwise extended, on September 30, 1985 (three years after the effective date of the initial designations under the pilot program), contract market designations for options on physicals will also cease to be effective after that date absent further action by the Commission.

settlement in lieu of actual delivery of the underlying physical. The Commission reaffirms its belief that cash settlement of options on physicals may be approporiate in certain circumstances and that the appropriateness of cash settlement is best addressed in the context of specific exchange proposals for option trading where the potential benefits and drawbacks of cash settlement may be evaluated fully in the context of the terms and conditions of the option contract.

One of the commentators maintained that allowing cash settlement could increase the likelihood that an option's settlement prices would be tied to the closing or settlement prices for the related futures contract or option on that futures contract. As discussed elsewhere in this **Federal Register** release, however, the Commission recognizes the importance of a reliable and accessible cash-market price for the physical underlying an option on a physical and has adopted, in § 33.4(a)(5)(iv)(B), a requirement that the boards of trade demonstrate an adequate cash price series as part of the designation process. Indeed, one of the reasons the Commission has required an adequate cash price series is to avoid reliance on the closing or settlement prices for a related futures contract (or option on a futures contract) for the settlement price of an option on a physical.

The Commission proposed that a board of trade applying for contract market designation for the trading of options on physicals demonstrate that "the cash market for the underlying physical exhibit sufficient liquidity so that option grantors and purchasers can purchase or sell the underlying physical at its economic value in normal cash marketing channels." Proposed § 33.4(a)(5)(iv)(A). The Commission proposed this requirement because of its belief that non-commercial traders should be able to buy or sell the physical underlying the option at its economic value without significant disadvantage relative to other traders.

This rule for options on physicals parallels a requirement for futures market liquidity (§ 33.4(a)(5)(iii)) applicable to options on futures contracts. Both rules seek to prevent the trading and exercise of options from disrupting underlying cash and futures markets. The Commission's rule for options on physicals also helps to ensure that those options can be exercised at their economic value, thereby providing an opportunity for the option holder to receive the intrinsic value of the option. The lack of a liquid cash market could especially disadvantage holders of deep-in-the money options who might have to accept significant discounts from the intrinsic value of the option if the ability to receive the economic value of the physical through exercise of the option did not exist.

Four commentators objected to this proposed designation requirement. These commentators asserted that the standard was vague, that cash market liquidity was irrelevant under certain circumstances, and that the existence of a liquid cash market prior to the commencement of option trading was not necessary. The Commission believes that its rule is sufficiently specific to apprise the boards of trade of the minimum standards necessary to demonstrate liquidity in the underlying cash markets. These measures of liquidity could include, in appropriate cases, bid-ask spreads, the number of transactions per unit of time, and the closeness of the prices for large and small orders. The Commission also recognizes, as mentioned by one commentator, that option trading may itself encourage the development of liquid cash markets. However, the Commission is not persuaded that a mere expectation that such liquidity will develop after the introduction of option trading is an appropriate basis upon which to trade options on physicals in view of the limited, rigidly-controlled nature of the option pilot program. The Commission, therefore, will not authorize options on physicals which lack the basic liquidity in the underlying physicals market which the Commission deems necessary for market and customer protection. The Commission has accordingly determined to adopt § 33.4(a)(5)(iv)(A) as proposed.

The Commission also proposed that a board of trade seeking designation to trade options on physicals demonstrate the existence of an accurate, widely-disseminated price series for the underlying physical. Proposed § 33.4(a)(5)(iv)(B). In proposing this requirement, the Commission stated that it deemed such a price series to be necessary because option premiums and the intrinsic value of an option on a physical will be derived from the current market value of the underlying physical. Thus, the Commission stated that a reliable price series would be essential if option customers were to be able to measure the value of their option contracts.

Three commentators opposed this proposal on several grounds. One commentator suggested that because there is no similar requirement for futures contracts or for options on futures contracts, the Commission should not adopt such a requirement for options on physicals. The Commission disagrees. First, while futures markets can serve a price discovery and price-basing function, there is no direct analogue to these functions in the option markets. Second, a requirement concerning an appropriate cash price series is not necessary for options on futures contracts inasmuch as the futures price serves the same purpose as the cash price series serves for options on physicals. Moreover, the Commission notes that its rules already specify that options on futures contracts can be designated only where there is a liquid underlying futures market and where the applicant board of trade complies with the conditions and requirements for designation as a contract market—*i.e.*, where the underlying futures contract generates a reliable and widely-disseminated price series. *See* § 33.4(a)(5)(iii) and § 33.4(a)(3).

The Commission further notes that the functions of the option markets do not include discovery of the price of the underlying future or commodity. Specifically, there is no single or small range of prices of the underlying future or commodity which can be imputed from an option premium because the option premium also depends on such subjective elements as expected future price volatility and price distributions of the underlying future or commodity. Accordingly, the Commission does not agree with the commentator who stated that the value of the underlying commodity can be derived from the price of the option itself.

Finally, one commentator noted that the commodities markets typically do not have accurate, widely-disseminated price series. In the absence of accurate and widely-disseminated cash prices, however, market participants and members of the public do not have an objective standard against which to measure the price and performance of their options and on which to base their decisions to maintain, offset or exercise their option positions. As indicated above, the Commission believes that in order to maintain the customer information and protection standards already established for options on futures contracts, such commodities should not be eligible for designation for options on physicals. The Commission has therefore decided to adopt § 33.4(a)(5)(iv)(B) as proposed.

As proposed, § 33.4(a)(5)(iv)(C) would require an applicant board of trade to demonstrate that the trading of options

on physicals will not disrupt trading in either the cash market for the underlying physical or in any futures contract. The Commission received two comments on its proposal. One commentator stated that § 33.4(a)(5)(iv)(C) was redundant in light of proposed §§ 33.4(a)(5)(iv)(A) and (B) while the other commentator supported the proposed rule.

The Commission does not agree with the commentator who suggested that this requirement is superfluous; rather, the Commission believes that this rule complements §§ 33.4(a)(5)(iv)(A) and (B). Specifically, the Commission notes that, without proper safeguards, the trading of options on physicals could disrupt trading in liquid cash markets and in related futures markets, particularly during or immediately before the delivery period. The Commission has accordingly determined to adopt § 33.4(a)(5)(iv)(C) as proposed. The Commission notes that under this rule, applicant boards of trade will be required to demonstrate that they have taken into account potential adverse effects on the underlying cash market in the design of their proposed option on physicals contracts and, in those cases in which related futures contracts are trading, have also considered the potential adverse effects on such futures contracts. In addition, applicant boards of trade must demonstrate that they have a systematic means of monitoring and acting to prevent any disruptions of the cash market and related futures markets, if any, particularly when the period during which options on physicals are likely to be exercised is close to the futures delivery period.

Proposed §§ 33.4(a)(7), (8) and (9) would have codified and made applicable to the trading of options on physicals the requirements of Commission Guideline No. 1. Several commentators objected to this codification on the grounds that it would reduce flexibility in the contract designation process.[15] While the Commission does not necessarily agree with these comments, it has determined not to codify these requirements in its option regulations for the reasons set forth in the **Federal Register** release accompanying the Commission's recent revision of Guideline No. 1.[16] The Commission is instead adopting a requirement that an applicant board of trade demonstrate, consistent with a description of the cash market furnished by the board of trade, that the individual terms and conditions of the contract are justified. Section 33.4(a)(5)(iv)(D).[17]

Section 33.4(b)(1)(iii) has been amended to require option contract markets to specify "the point, in terms of the underlying futures contract or underlying physical, at which a new strike price will be introduced in any option which is already trading." One commentator urged the Commission alternatively to allow strike prices for options on physicals to be based upon futures contracts where there is no widely-disseminated cash price series for the underlying physical. The Commission, however, would not designate an option on a physical in the absence of such a cash price series. *See* § 33.4(a)(5)(iv). Furthermore, the Commission is concerned that allowing strike prices for options on physicals to be based, in whole or in part, on a futures contract—which may or may not be traded on the same exchange on which the option is traded—could have adverse effects on the pricing efficiency of that futures contract.

Proposed § 33.4(a)(8)(iv) would have required a board of trade applying for contract market designation for the trading of options on physicals to include in its application an analysis and justification of any proposed option expiration date. Although the Commission did not propose to otherwise restrict the time when such an option could be exercised, the Commission specifically requested comments as to whether there should be a limited period or a single date for the exercise of options on physicals. 47 FR 28401, 28403 (June 30, 1982).

The Commission received six comments on this question, three of which supported permitting exercise at any time prior to the expiration of the option and two of which opposed unlimited exercise. The sixth commentator favored exercise at any time during the life of the option only if the option expiration date occurred prior to the first notice date for delivery of any related futures contract.

After considering these comments, the Commission remains of the opinion that restrictions on the exercise of options on physicals are best reviewed on a case-by-case basis. The Commission agrees, however, with the commentator who noted that the exercise of options on physicals may be disruptive of the futures markets if, for example, option grantors or purchasers take opposite positions in the futures market and then make or take delivery on those futures contracts if the options are exercised. That commentator argued that the delivery period for a futures contract should be protected from such adverse effects in the same manner as it is protected from the trading of options on futures. The Commission finds merit in this comment and is therefore modifying § 33.4(d)(1) to extend to options on physicals the requirement that the expiration date of the option ordinarily precede by at least ten business days the first notice day or last trading day of any related futures contract.

In response to a suggestion made by one of the commentators, the Commission has modified the last sentence of paragraph (1) of the Options Disclosure Statement (§ 33.7(b)(1)) in order to clarify its meaning. The Commission has also modified that paragraph to alert option customers to the possibility that the exercise period for some options may be restricted.

Another commentator noted that the description of the profit potential of deep-out-of-the-money options as "remote" (§ 33.7(b)(6)) was not necessarily accurate. Specifically, this commentator stated that an option customer could profit on the purchase of a deep-out-of-the-money option upon offset after a price change in the underlying futures contract or physical resulted in a favorable price change in the option premium. The Options Disclosure Statement, however, does not indicate that an option purchaser cannot profit from such an option position; instead, it indicates that such profits are ulikely. Therefore, although this commentator is correct, the Commission believes that this is a matter that is best explained orally to those option customers who may be contemplating the purchase of a deep-out-of-the-money option and that further elaboration of this issue in the Disclosure Statement would be unnecessarily confusing.

The Commission proposed to amend paragraph (b)(2)(viii) of the Options Disclosure Statement to make clear that the required discussion of the effects of limit moves in the futures market did not apply to options on physicals. Specifically, that rule requires FCMs to provide their option customers with the following information for options on futures contracts:

The loss (or profit) that could be generated by the option position by a limit move (or a series of limit moves) in the underlying

[15] A number of the commentators reiterated or incorporated by reference comments they had already made in connection with the Commission's earlier proposed codification of Guideline No. 1. *See* 45 FR 73504 (November 5, 1980).

[16] 47 FR 49832 (November 3, 1982).

[17] This demonstration should be made in accordance with Sections A and B, respectively, of revised Guideline No. 1. The justification required under 33.4(a)(5)(iv)(D) is not the only economic requirement for designation of a contract market to trade options on physicals. *See, e.g.*, § 33.4(a)(5)(i), which requires a demonstration of a legitimate economic purpose, such as the reduction of commercial risks.

future, both in total dollars and as a percentage of the total cost of the option.

One commentator urged the Commission to delete this requirement. In support its position, that commentator stated that its experience had already indicated that compliance with this requirement was extremely costly and inherently difficult because it necessitated a series of complex computations that are not readily understood by option customers.

The Commission has reconsidered that portion of its disclosure rule in light of its objective that all option customers be fully informed of the risks involved in option trading. *See* 46 FR 54500, 54507 (November 3, 1981). The Commission agrees that a literal calculation of the effects of limit moves on the profit potential of an option is unduly complicated and provides information that is, at best, of little value to option customers. The Commission believes, however, that a generic discussion of the possibility of limit moves in the futures contract underlying a commodity option may well be of importance to option customers, particularly insofar as trading in pilot program options "may attract customers who heretofore have had little or no exposure to the commodity markets." *Id.* The Commission has, therefore, modified that portion of its disclosure rule to eliminate the present requirement that an FCM provide its option customers with detailed calculations of the effects of limit moves and instead, will require that an FCM provide generalized information as to the effect of such market activity.

The Commission is aware that the amendments to the Disclosure Statement necessitated by the inclusion within the pilot program of options on physicals will ultimately require revision of those Statements. The Commission does not believe that it is necessary, however, to require the amendment of those Statements prior to the commencement of trading in options of physicals. Accordingly, the Commission will deem an FCM to be in compliance with the requirements of § 33.7(a) if, subsequent to the final adoption of these amendments to § 33.7, it continues to provide to its prospective option customers Options Disclosure Statements that have not been amended to reflect the revisions that are made necessary by the trading of options on physicals. This "no action" position will terminate, however, when the Commission designates one or more exchanges as contract markets for the trading of options on physicals. All FCMs will then be required to provide the same Options Disclosure Statement, irrespective of whether a particular FCM intends to offer options on physicals to its option customers.

It has come to the Commission's attention that certain portions of its disclosure rules are susceptible of interpretations which are contrary to the Commission's intentions. For example, § 33.7(a) provides that "[t]he disclosure statement and the acknowledgment [Signed and dated by the option customer] shall be retained by the futures commission merchant in accordance with § 1.31." The Commission is aware that this provision could be interpreted to mean that an FCM must maintain one copy of that statement for each of its option customers. The rule is intended, however, generally to require only that an FCM retain a single copy of the Disclosure Statement. Of course, should an FCM provide different versions of the Disclosure Statement to different option customers (such as where the Disclosure Statement has been revised to incorporate references to options on physicals), the FCM's records must accurately reflect which version of the Disclosure Statement was provided to particular option customers. Furthermore, an FCM continues to remain obligated to retain, in accordance with § 1.31, the required acknowledgment for each of its option customers.

Section 33.7(c) presently provides that an FCM must provide an option customer with all of the information required under paragraph (b) of that rule "[p]rior to the entry into a commodity option transaction. * * *" The Commission understands that some persons have asked whether this would require an FCM to provide information to its option customers before the entry of every option order. The Commission's intention, however, was to ensure that each option customer is fully informed as to the matters discussed in the Disclosure Statement prior to the time he commences trading. The Commission has, therefore, modified that portion of its rule to require the disclosure of this information" [p]rior to the entry of the first commodity option transaction for the account of an option customer. * * *[18] Of course, this rule change does not affect an FCM's obligation to provide new or additional information to its option customers prior to the entry of an order if the information previously provided has become inaccurate or incomplete. *See* § 33.7(f). Although the rules which the Commission is now adopting generally will not become effective until after publication of this **Federal Register** notice, the Commission has instructed its staff not to take enforcement action against any FCM or person soliciting or accepting the order therefor which chooses to conform its disclosure practices to the revised requirements of § 33.7 prior to that time.

[18] The Commission has further modified paragraphs (c) and (d) of rule so that the limitations, if any, on the transfer of an option customer's account generally need only be provided prior to the commencement of trading and not prior to the entry of each option order.

IV. Amendments to Existing Regulations

The Commission is adopting minor amendments to the definitions of the terms "associated person" (§ 1.3(aa)), "commodity option transaction" and "commodity option" (§ 1.3(hh)), and "strike price" (§ 1.3(kk)) and, as noted earlier, is also adding a definition of the term "physical" § 1.3(ll)).

The Commission did not receive any comments on the proposed amendments to §§ 1.3(aa) and 1.3(kk) and they are being adopted without change. The Commission similarly did not receive any comments on the proposed amendment to § 1.3(hh), which clarifies that the terms "commodity option transaction" and "commodity option" are not defined by reference to any particular commodity but instead are determined by the descriptions of transactions provided in that paragraph. Section 1.3(hh) is therefore being adopted in the form in which it was proposed.

The Commission is making several changes to § 1.17, the minimum financial rule for futures commission merchants. In particular, the Commission has decided that no "haircut," or safety factor charge, need be taken against an FCM's adjusted net capital for inventory which is currently registered as deliverable on a contract market and is covered by a futures contract or an option on a physical. Section 1.17(c)(5)(ii)(A). Some of the commentators, while acknowledging the basis for the Commission's approach, urged the Commission to afford similar treatment to inventory which is "covered" by options on futures contracts. The Commission believes, however, that subparagraph (B) of § 1.17(c)(5)(ii) already sets forth the appropriate charge in such cases and has therefore adopted the amendment as proposed.

The Commission is also amending paragraphs (c)(1)(iii) and (c)(5)(xi) of § 1.17 to make clear that those provisions are consistent with the definition of "physical" and further, to specify that they apply regardless of whether the option involved is an option

on a physical or an option on a futures contract.[19] Finally, the Commission is amending §§ 1.17(c)(5)(x) and (c)(5)(x)(D) to make minor, clarifying changes in the terminology of those paragraphs. The Commission did not receive any comments on those portions of its proposal and they are being adopted without change.

Section 1.19 is being amended to delete specific references to various types of option transactions and by inserting the term "commodity option" in their place. No comments were submitted in response to the proposed amendment.

The Commission is adopting, without change, certain technical amendments to § 1.22. One commentator asked whether § 1.22 prohibits the use of customer funds (as defined in § 1.3(gg)) to purchase a commodity for the purpose of covering a granted option. By its terms, § 1.22 imposes obligations upon FCMs (and other depositories of customer funds); it does not, by comparison, preclude an FCM from so using customer funds pursuant to instructions from a customer or option customer.

The Commission is amending § 1.33, which relates to confirmation and monthly statements, to include references to options on physicals. Section 1.33(a) is also being amended to require FCMs to provide to their futures customers a monthly activity statement which contains, among other items, information relating to financial charges and credits during the preceding month; this information is already required to be provided to option customers. One commentator objected to this latter requirement, stating that the Commission should not establish such a rule without specifically identifying all of the items that would have to be included in the monthly statement. The Commission does not agree that any further elaboration is necessary in view of the existing and widespread industry practice of separately enumerating such charges and credits on customers' account statements and in view of the variety of debit and credit items that may be properly posted to a customer's account. The Commission had also proposed to require the itemization of commissions and fees in the monthly statements provided to futures customers. The Commission has, however, received suggestions from certain FCMs that such a requirement would be costly to implement and furthermore, may not be of significant benefit to customers, who already receive this information on a timely basis. The Commission is therefore today publishing a separate notice of proposed rulemaking in the **Federal Register** specifically requesting comments as to whether it should further amend §1.33(a)(1)(iv) to require the inclusion of commissions and fees in the monthly statements provided to futures customers.

Section 1.33(b)(2)(v) presently requires FCMs to provide to their option customers confirmation statements which specify both the expiration date and the final exercise date of the option as well as the final trading date of the contract for future delivery underlying an option on a futures contract. The Commission has become aware, however, that the inclusion of the expiration date and the final trading date of an underlying futures contract may be creating unnecessary operational difficulties for FCMs and, in some instances, causing confusion to option customers. Specifically, the Commission anticipates that many option positions will be offset or allowed to expire, in which cases the final trading date of the underlying futures contract will be of little importance to an option customer. Furthermore, the Commission is concerned that option customers could, in reviewing their confirmation statements, confuse the final exercise date of the option with either the option expiration date or the final futures trading date and inadvertently allow profitable option positions to expire unexercised.

The Commission is, therefore, deleting from § 1.33(b) any requirement that the option expiration date appear on a confirmation statement. By comparison, the Commission believes that information as to the final trading date of the underlying futures contract will be of interest to those option customers who do exercise their option positions. The Commission has accordingly removed from § 1.33(b)(2)(v) the requirement that the final trading date of the underlying futures contract appear in every option confirmation statement and instead, will require that this information be provided only in the event of exercise of an option on a futures contract. *See* § 1.33(b)(3). Although these rule changes will not become effective until thirty days after the date of this **Federal Register** notice, the Commission has instructed its staff not to take enforcement action against any FCM which chooses to conform its confirmation and monthly statements to the revised requirements of § 1.33(b) prior to that time.

No comments were received in response to proposed changes to §§ 1.34, 1.35 and 1.39. The Commission is adopting these amendments without change. The amendments are basically technical in nature and, in general, merely incorporate appropriate references to options on physicals. Section 1.35(e) has also been amended to refer to the non-competitive execution of option transactions in accordance with contract market rules submitted to and approved by the Commission in accordance with § 1.38, thereby conforming the concluding paragraph of § 1.35(e) to earlier amendments to § 1.38.[20]

When it adopted rules to govern the option pilot program, the Commission amended § 1.41(a)(2) to specify, consistent with the prohibition on the margining of option premiums contained in § 33.4(a)(2), that the term "reviewable rule" of a contract market (§ 1.41(a)(2)) included contract market rules relating to the payment or collection of commodity option premiums. 45 FR 54500, 54510 (November 3, 1981). The Commission further indicated that it had instructed its staff to review carefully the exchanges' applications for option contract market designation to ensure that each board of trade or its clearing organization, as applicable, will have in place a system to require the payment of margin by option grantors and, where applicable, their FCMs. *Id.* at 54505. Thus, when the Commission proposed rules to incorporate options on physicals within the scope of the option pilot program, it proposed, consistent with its existing practice, to amend §1.41(a)(2) to specify that the term "reviewable rule" also included any rule of a contract market "relating to the payment or collection of commodity option margin."

A number of commentators, concerned that the Commission intended to involve itself in the setting of levels of margin, maintained, *inter alia*, that the Commission was ill-equipped to act promptly in response to the changes in market conditions that not infrequently require an adjustment in the levels of margin established by the exchanges or their clearing organizations. These commentators further observed that Commission review of option margin levels could result in an anomalous situation

[19] One commentator, noting that the proposed rules referred to the "market value of the physical or futures contract which is the subject of the option," stated that a futures contract does not have a "market value" *per se*. The Commission has used the term "market value" in § 1.17 to mean the settlement price of the underlying futures contract, inclusive of unrealized gains and losses.

[20] 46 FR 54500, 54523 (November 3, 1981); *see* 47 FR 28401, 28406 (June 30, 1982).

whereby futures margin levels could be changed immediately, but option margin levels would remain unadjusted pending review and approval by the Commission. As indicated above, the Commission's proposal was not intended to abrogate the routine determination, by the exchanges, of appropriate levels of margin. Indeed, as the Commission observed when it adopted rules to establish the option pilot program, the characteristics of the futures and option markets are not at present sufficiently different to require the Commissions involvement in the setting of levels of option margin. *Id.* The Commission has accordingly modified the final rule to make clear that rules relating to the actual setting of levels of margin will not be deemed to be reviewable rules.

Many of those commentators further argued that the Commission also lacked authority under the Act to review exchange rules relating to the payment or collection of option margins. The Commission has plenary authority under Section 4c(c) of the Act to adopt such a requirement. Section 5a(12) of the Act (7 U.S.C. 7a(12)) restricts only the Commission's authority to review and approve contract market rules relating to the setting of levels of margin for futures transactions.[21] Indeed, the Commission is authorized under Section 4c(c) to review not only exchange rules relating to the payment and collection of option margins which—together with exchange rules establishing or modifying methods and systems for the payment and collection of option margin—must be submitted to the Commission as reviewable rules under § 1.41(b), but also to review the establishment of actual levels of margin for commodity option transactions.

One contract market, while expressing reservations about the Commission's proposal, stated that it did not object to seeking prior Commission approval of rules relating to the bases on which original margin for option grantors will be determined or to the times within which margin payments must be made.[22] The Commission's rule would encompass primarily these and related subjects [23] but would not, as indicated above, directly involve the Commission in the day-to-day establishment of actual levels of option margins.

Although this amendment to § 1.41 would merely continue the Commission's practice of reviewing the exchanges' methods and systems for the assessment and the payment and collection of option margin,[24] one commentator suggested that the Commission not codify this procedure in its regulations because decisions made by the Commission with respect to option margin procedures could have an effect on margin levels for futures contracts. In this regard, the Commission notes that despite the urgings of certain segments of the industry, it has thus far declined to impose upon the boards of trade a uniform system for the margining of option transactions which would be significantly more intrusive that the limited review contemplated by the rule now being adopted by the Commission. The Commission will, however, continue to assess the operation and effect of these different margining systems in order to determine whether the exchange's divergent approaches to the margining of option transactions are causing unnecessary operational difficulties for FCMs or resulting in confusion as to the obligations of option grantors.[25]

The Commission proposed to amend §§ 1.42–1.44, which relate generally to delivery notices and the storage of commodities in warehouses and similar depositories, to include appropriate references to options on physicals. One commentator stated its belief that those regulations should not apply to any futures or option contract which is settled in cash. The Commission agrees with this commentator and notes that, both as proposed and as now amended, neither § 1.43 nor § 1.44 would apply to such cash-settled contracts. Section 1.42, which requires each contract market to furnish a copy of delivery notices (or, as proposed, notices of exercise of options on physicals) has also been amended to exclude from this requirement those futures contracts and options on physicals which are settled in cash rather than by delivery of the underlying commodity or physical.

The Commission proposed to amend §§ 1.46(a) (3) and (4), which apply generally to the closing out of offsetting long and short positions, to include options on physicals within the provisions of that section. One commentator noted that, as proposed, § 1.46 could be construed to require an FCM to offset an option on a futures contract with an option on a physical where those contracts were executed on the same contract market and had the same strike price and expiration date. The Commission has modified the final regulation accordingly to eliminate this ambiguity.

The Commission is also amending the concluding paragraph of § 1.46(a) which, in addition to requiring the closing out of offsetting long and short positions, requires an FCM to furnish to its customer or option customer "a statement showing the financial results of the transactions involved." The Commission recognizes, however, that while a statement of the financial results is appropriate for futures transactions, where no gain or loss is realized until a position is closed out, similar treatment is unnecessary for options transactions because options confirmation statements will separately specify the amount of the premium paid (in the case of a long options position) or received (in the case of a short options position). Section 1.33(b).[26] As with the amendments the Commission is today making to § 1.33, the Commission has instructed its staff not to take enforcement action against any FCM which chooses, before the effective date of these rule amendments, to conform its options purchase and sale statements to the requirements of the amended rule.

Section 1.46(d)(1), which was adopted as part of the option pilot program regulations, presently provides an exemption from the provisions of that section for "purchases or sales of futures contracts for the purpose of covering the granting of options on a contract market, if such purchases or sales are accompanied by instructions and other evidence that such futures contracts are

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[21] Similarly, Section 8a(7) of the Act (7 U.S.C. 12a(7)) would not impede the Commission's authority, in appropriate cases, to alter or supplement exchange rules relating to the levels of option margin or the methods and systems employed by the exchanges for the payment or collection of option margins.

[22] *See* 45 FR 54500, 54505 & n.12 (November 3, 1981.)

[23] For example, the Commission has earlier indicated that it intends to scrutinize especially carefully any exchange application for contract market designation which contemplates the payment of unrealized profits to option purchasers on options that are not offset, exercised or expired. *Id.* at 54505.

[24] To date, the Commission has designated four boards of trade as contract markets for the trading of options on futures contracts and has made substantial progress in the processing of four additional applications for such designation.

[25] On July 2, 1982, the Commission denied a petition by the Coffee, Sugar & Cocoa Exchange, Inc. to modify or repeal Commission rule 33.4(a)(2) which, in effect, prohibits the margining of option premiums. Although it denied that petition, the Commission nonetheless indicated that it would reconsider the issue after the Commission and the industry have gained sufficient experience with the trading of options under the pilot program.

[26] The Commission also is aware that to require the inclusion of this information on the purchase and sale statements required by § 1.46 could create significant operational difficulties for FCMs who would be required, in effect, to credit (or debit) their option customers' accounts not only when the option position was established, but then to debit and recredit (or credit and redebit) the account when the position was offset.

cover for granted options." The Commission proposed to delete that provision when it proposed regulations to implement the trading of options on physicals. As the Commission explained at that time, the exception provided by that paragraph was inappropriate insofar as it referred to futures contracts "covering" options on those contracts. By comparison, the Commission understands the term "cover" to apply only to an option on a physical (and the underlying physical) and to a futures contract (and the underlying commodity).[27] The Commission further indicated in its proposal that "in a situation where § 1.46(d)(1) would apply as presently written, a portion of the overall market position [*i.e.*, the underlying commodity] would necessarily be 'uncovered.' " 47 FR 28401, 28406 (June 30, 1982).

The comments received by the Commission on this proposal suggested that the deletion of this provision would adversely affect the liquidity and pricing efficiency of the option markets. Rather than delete § 1.46(d)(1), the commentators suggested that the Commission instead expand the exemption to permit traders to keep open offsetting option positions and exempt all options on futures transactions from the provisions of § 1.46.

The Commission also requested comments as to whether and under what circumstances it should exempt commercial option traders from the requirements of § 1.46. 47 FR 28401, 28405 (June 30, 1982).[28] The commentators generally supported such an exemption, stating that it would provide a significant opportunity to use options for the reduction of commercial risks.

The Commission has considered these comments and has further analyzed its proposal. While the Commission believes that the positions advanced by some of the commentators are not without merit, the suggested alternatives to the Commission's proposed deletion of paragraph (d)(1) do not allay the Commission's concerns in this area. Specifically, and apart from the reasons already specified by the Commission in its proposal, the Commission is concerned that continuing the exemption presently contained in § 1.46(d)(1) would have the effect of distorting open interest, to the detriment of the Commission and the exchanges in the performance of their respective market surveillance activities and to the disadvantage of users of the markets who rely upon the accuracy of that information in making trading decisions.[29] In this regard, the Commission deems it essential that any exemption for option transactions from the automatic offset provisions of § 1.46 provide specifically for the closing out of these "balanced" positions by open outcry, on the floor of the exchange, and not by transfer trade or some comparable mechanism. The Commission further believes that any such exemption should also provide adequate safeguards to ensure that the trading losses incurred by an option customer on one side of a balanced and otherwise offsetting position are not obscured by the absence of a mandatory close-out provision.

In view of these considerations, the Commission has determined to revise § 1.46(d)(1) to provide what it believes to be a limited but nonetheless appropriate exemption for commercial participants in the option markets. Specifically, the rule which the Commission is now adopting will provide an exemption for option positions held by commercial interests in the underlying commodity where those option positions have been determined by the contract market to be economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise. Thus, the rule which the Commission is now adopting parallels Commission rule 1.61(b) (17 CFR 1.61(b)) and the Commission will allow the contract markets to afford the same treatment to commercial traders under both §§ 1.46 and 1.61.[30] However, in view of the Commission's concerns with respect to the effects on open interest of such offsetting positions, the Commission is further requiring that any such offsetting positions must be closed out by open outcry, on the floor of the contract market, and not by transfer trade or other, similar noncompetitive means.[31]

The Commission also wishes to emphasize that, as amended, § 1.46(d)(1) will apply only to offsetting option positions—*i.e.*, long and short call or long and short put option positions on the same contract market which have the same strike price and expiration date.

The Commission is amending certain of its registration regulations to include references, where appropriate, to commodity option transactions. The Commission did not receive any comments responding to the proposed changes. Specifically, § 3.20 (delegation of authority to deny registration) has been amended to include as a basis for denial of registration certain misdemeanor convictions involving commodity options. Section 3.33 (withdrawal from registration) has been amended to clarify that certain requirements concerning the termination of relationships with customers apply equally to option customers. Similarly, the Commission's interpretation of the "other good cause" provisions of Section 8a(2)(B)(ii) of the Act (7 U.S.C. 12a(2)(B)(ii)), is being amended to include references to commodity options (17 CFR Part 3 Appendix A).

The Commission is amending §§ 4.13, 4.21, 4.22, 4.23, 4.30, 4.31 and 4.32, which relate to the operations and activities of commodity trading advisors ("CTAs") and commodity pool operators ("CPOs"), to make clear that the provisions of the Commission's Part 4 rules apply to all "commodity interest" transactions, whether they involve futures contracts, options, or leverage contracts, and to make other conforming changes. No comments specifically responding to the proposed amendments were submitted and the amendments are being adopted in the form in which they were proposed. In this regard, the Commission wishes to note that corrections to the Disclosure Documents furnished by CPOs and CTAs (*see* §§ 4.21(a) and 4.31(a)) may be made by way of an amended Document or other similar means such as a letter or, in the case of a commodity pool, by the next periodic account statement for the pool. It should be further noted that §§ 4.21 and 4.31 only require the updating of a Disclosure Document if the Document is being used to solicit prospective customers; the Commission will not require that the Documents be amended if no solicitations are being made. If solicitation is resumed, however, the Document must be updated at that time. *See* 46 FR 26004, 26010–11 (May 8, 1981).

The Commission is amending § 32.1 by adding a new paragraph (a), which would delineate the scope of Part 32,

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[27] *See generally* Commission rule 1.17(j), 17 CFR 1.17(j).

[28] The exemption from the requirements of § 1.46 for "bona fide hedging transactions" provided by paragraph (d)(2) of that section does not apply to option transactions. 47 FR at 28405; *see* § 1.3(z), 17 CFR 1.3(z).

[29] *See* 45 FR 57141, 57146 (August 27, 1980).

[30] Section 1.61(b), which generally requires each contract market to adopt and submit to the Commission for its approval rules which limit the maximum net long and net short futures and option positions any person may hold or control (*i.e.*, speculative position limits), provides an exception from those exchange-set speculative limits for commercial interests.

[31] Any such open and otherwise offsetting positions must be reported both to the exchange as open interest and, in appropriate cases, to the Commission on the Large Trader Reporting (Series '01) Forms. *See* § 17.00.

and by redesignating other paragraphs of that section accordingly. In addition, § 32.11(b) has been amended to clarify that the ban on certain commodity option transactions contained in § 32.11(a) does not apply to option transactions conducted on or subject to the rules of a contract market in accordance with the provisions of Section 4c(c) of the Act and the regulations promulgated thereunder.

Sections 145.5 and 147.3 are being amended to provide for the generally non-public treatment of information furnished in compliance with the reporting requirements contained in Parts 15–21 of the Commission's regulations.

The Commission is amending § 155.2 to clarify that an exchange's rules on dual trading should prohibit a floor broker from executing an order for his own account or an account in which he has an interest where such execution would involve a purchase or sale of a future or option if the floor broker is holding an executable customer or option customer's order (for the purchase or sale of a future or an option) in the same commodity and that customer or option customer's order would benefit from a market move in the same direction as the broker's trade for his own account or the account in which he has an interest. The Commission is also amending § 155.3 to establish similar requirements for FCMs. Specifically, § 155.3(a)(1) provides generally that each FCM must establish and enforce internal rules, procedures and controls to prevent the FCM's affiliated persons who know of a customer's or option customer's trading activity to transmit for execution orders in the same commodity or in an option on that commodity in advance of the customer's or option customer's order. The Commission did not receive any comments on either of those proposed rule changes.

The Commission proposed to amend certain of its regulations relating to the customer protection and arbitration programs of registered futures associations in order to include references to commodity options. One commentator was concerned that adoption of these changes could be viewed as implicitly mandating the immediate assumption of those responsibilities by the National Futures Association ("NFA"). The Commission, however, does not view the adoption of these amendments as establishing new obligations for NFA and further, does not believe that these amendments will adversely affect the orderly phase-in, by NFA, of customer protection and arbitration programs pursuant to rules which have been approved by the Commission. The Commission is also amending § 180.1, which relates to exchange-sponsored arbitration programs, to include appropriate references to commodity option transactions.

V. Amendments to the Reporting Requirements

The Commission proposed that, with two exceptions, the reporting requirements already established for options on futures be applied to options on physicals. *See* 47 FR 28401, 28407 (June 30, 1982). Those two exceptions concern the frequency with which large option trader reports must be filed and the information that must be contained in those reports. For options on futures contracts, large trader reports must be routinely filed on a weekly basis and only account identification and position information must be reported. 17 CFR 16.02. For options on physicals, the Commission proposed that large trader reports be filed daily and that option exercises, as well as account identification and position information, be reported, *See* 47 FR at 28407. The Commission received five comments on these aspects of the proposed regulation, all of which opposed the adoption of these requirements.

Four of the commentators believed that the requirements for large trader reports for options on physicals should parallel the requirements for options on futures. These commentators all maintained that these additional requirements were unwarranted in view of the added cost to, and operational burden on, the exchanges that would result from these requirements. None of these commentators provided any estimate of these additional costs, however. Another commentator stated "the collection of market surveillance data should be based on a perceived need, * * * not because of a regulation requiring it." With respect to the reporting of exercises of options on physicals, this commentator further argued that the "need for the information would vary widely, depend[ing] on the contract being traded * * * [and] would vary for the same commodity at different times and under different circumstances."

One of the commentators separately recommended that the requirements concerning daily reporting and reporting of option exercises should not apply to options on physicals which are settled in cash. The Commission agrees that when options on physicals are settled in cash, weekly large trader options reports will ordinarily be sufficient and that the reporting of options exercised by large traders may not provide useful information for market surveillance purposes. The reporting requirements for options on physicals which are settled in cash are, therefore, identical to the current reporting requirements for options on futures.

By comparison, the Commission is not persuaded that daily reporting of large option traders' positions and exercises should not be required with respect to options on physicals which call for transfer of ownership of the underlying commodity as the means of exercise. The Commission currently deems it necessary to receive daily reports concerning the positions of large futures traders and the delivery notices issued or stopped by such traders. The Commission anticipates that market surveillance concerns similar to those which the Commission experiences with maturing futures contracts may occur as options on physicals near expiration. The Commission will, however, carefully consider exchange rules, submitted in conjunction with applications for contract market designation for options on physicals, which limit or modify the applicability of the reqirements of § 16.02 in appropriate cases. The Commission has, therefore, revised the reporting requirements contained in § 16.02 for those options on physicals which are not settled in cash to reflect that the Commission may, in its discretion, approve reporting rules for a particular contract market that differ from those specified in § 16.02.[32]

In addition to the measures discussed above, the Commission proposed other amendments to its reporting

[32] One commentator noted that the term "reportable" had been omitted from the specification, in § 16.02, of which option positions should be reported to the Commission by the exchanges. As adopted, this term has been incorporated by the Commission into that rule.

One commentator also objected to the proposed requirement that large option trader reports for options on physicals be provided six weeks in advance of an option's expiration date, a requirement that already applies to options on futures contracts. The Commission traditionally intensifies its surveillance of a futures contract approximately six weeks prior to the last day of trading in order to make a timely assessment of potential problems and to gather any additional information to supplement that which it routinely receives. The Commission presently has no reason to believe that the requirements for surveillance of options on physicals will differ markedly from the requirements for surveillance of maturing futures contracts. For this reason, the Commission has adopted, as proposed, a six-week reporting requirement for large option trader reports. The Commission will, however, review this requirement during the pilot program and, if the situation warrants, reconsider the need for the six-week reporting period.

requirements to conform further the regulations concerning futures and options reporting. These included amendments to § 16.00 to require exchanges to provide information concerning futures positions and transactions of clearing member firms separately for proprietary and customer accounts and to § 16.01 to require the contract markets to report futures transactions and open interest in machine-readable form.

One commentator objected to the requirement that the futures transactions and positions of clearing members be reported separately by proprietary and customer accounts. That commentator noted that this requirement has not previously applied to futures transactions and claimed that the Commission has not demonstrated "* * * that the availability of this data would have been beneficial in the past or could be expected to provide a useful surveillance tool in the future."

Information provided by the exchanges under Part 16 of the Commission's regulations is, however, the only report received by the Commission that indicates, by firm, the distribution of total open contracts and transactions in a given future of a commodity. Moreover, since the Commission has discontinued the routine filing of large trader reports under § 18.00, the Commission receives information concerning the volume of trading by firms only from the reports filed under § 16.00.[33] As such, the reports filed pursuant to that regulation are used routinely to investigate concentrations of positions and the origins of large trading volume. These investigations frequently involve maturing futures contracts and, in the event of sharp price changes, analyses of all futures. Because clearing member firms are generally active traders for their own accounts, the information required under § 16.00, when separated by proprietary and customer accounts, has often been sufficient to provide the Commission with the information it requires and has eliminated the need for further investigation. Where exchanges do not separately identify positions and transactions by proprietary and customer accounts, the Commission has been forced to expend considerable time and resources to obtain the necessary breakdown. Moreover, the Commission notes that the majority of the exchanges already collect from their clearing members and provide to the Commission the information that will now be required under § 16.00. In view of these considerations, the Commission is adopting §16.00 as proposed.

One commentator questioned the need for the amendments to §16.01 which require the exchanges to provide information relating to futures transactions and open interest in machine-readable form. This commentator argued that the Commission should indicate how it would use the new reports since the adoption of this proposal would result in increased expense to the contract markets. The Commission believes this change has been made necessary by the dramatic increase in recent years in the number of contract markets for which the Commission must conduct market surveillance. The corresponding increase in the volume of data that must be analyzed by the Commission has resulted in a corresponding increase in the Commission's reliance on computers and automated data processing to screen and organize that data.

Furthermore, market information which is disseminated to the public by a number of exchanges either is, or can be, produced from the exchanges' own computer systems. In such cases, the cost of providing the information to the Commission in the form specified in the rule is insignificant relative to the cost to the Commission of translating that information into machine-readable form. In this regard, the Commission notes that provisions in its existing rules allow it to consider each exchange on a case-by-case basis in applying similar requirements;[34] this same provision will apply to the amendments to § 16.01. In view of the above considerations, the Commission has determined to adopt § 16.01 as proposed.

No comments were received with respect to the remainder of the proposed amendments to §§ 15.00, 15.05, 16.01, 16.04, 18.00, 18.01, 18.04, 18.05, and 21.02. Most of these proposals were technical amendments intended to add conforming references to options on physicals, to simplify or clarify existing regulations, and to reduce the number of reporting forms that must be filed with the Commission. Accordingly, the Commission is adopting these amendments as proposed.

VI. Related Matters

When the Commission proposed regulations to permit and govern the trading of options on physicals on domestic exchanges, the Chairman certified, on behalf of the Commission and pursuant to the Regulatory Flexibility Act, that if the regulations were promulgated as proposed, there would not be a significant economic impact on a substantial number of small entities. In this connection, the Commission noted its previous determination that contract markets, registered futures commission merchants, registered commodity pool operators, and large traders are not "small entities" for purposes of that Act (47 FR 18618 (April 30, 1982)) and that the requirements of the Regulatory Flexibility Act therefore did not apply to those entities. The Commission further noted that those provisions of the proposed regulations which affected commodity trading advisors merely would amend §§4.30–4.32 to include, where appropriate, references to "commodity interests" [35] rather than references solely to futures trading, and hence were technical in nature. Thus, the Commission expressed its belief that, if adopted, §§ 4.30–4.32 would not have a significant economic impact on commodity trading advisors. As stated above, the Commission did not receive any comments responsive to the proposed amendments to §§ 4.30–4.32 and is adopting them as proposed. The Commission also did not receive any comments on its proposed Regulatory Flexibility Act certification.

For the reasons indicated above, and pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects

17 CFR Part 1

Commodity exchanges, Financial requirements, Commodity exchange designation procedures, Commodity exchange rules, Reporting and recordkeeping requirements, Records, Customer protection, Definitions.

17 CFR Part 3

Withdrawal from registration, Denial of registration.

17 CFR Part 4

Commodity pool operators, Commodity trading advisors, Disclosure document, Records.

17 CFR Part 15

Reporting and recordkeeping requirements, Foreign brokers, Foreign traders.

[33] 46 FR 59960 (December 8, 1981).

[34] 46 FR 54500, 54514 (November 3, 1981).

[35] Commission rule 4.10(a) defines the term "commodity interest" to include futures, options, and leverage transactions. 17 CFR 4.10(a).

17 CFR Part 16

Commodity exchange reports, Reporting and recordkeeping requirements.

17 CFR Part 18

Reporting and recordkeeping requirements.

17 CFR Part 21

Reporting and recordkeeping requirements, Special calls for information.

17 CFR Part 32

Commodity options, Fraud.

17 CFR Part 33

Commodity options, Commodity exchange designation procedures, Fraud, Risk disclosure statement.

17 CFR Part 145

Records, Freedom of information.

17 CFR Part 147

Commission meetings, Sunshine Act.

17 CFR Part 155

Commodity exchange trading standards, Futures commission merchant trading standards.

17 CFR Part 170

Futures Association.

17 CFR Part 180

Arbitrations, Claims.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4c(a), 4c(b), 4c(c), 4c(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17 thereof, 7 U.S.C. 2 and 4, 6c(a), 6c(b), 6c(c), 6c(d), 6d, 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21, and pursuant to the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 is amended by revising paragraphs (aa), (hh) and (kk), and by adding a new paragraph (ll) to read as follows:

§ 1.3 Definitions.

* * * * *

(aa) *Associated person.* This term means any natural person who (as provided in Section 4k of the Act) is associated with a futures commission merchant or with an agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (1) the solicitation or acceptance of customers' or option customers' orders (other than in a clerical capacity) or (2) the supervision of any person or persons so engaged.

* * * * *

(hh) *Commodity option transaction; commodity option.* These terms each mean any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "call," "put," "advance guaranty," or "decline guaranty," and which is subject to regulation under the Act and these regulations.

* * * * *

(kk) *Strike price.* This term means the price, per unit, at which a person may purchase or sell the contract of sale of a commodity for future delivery or the physical which is the subject of a commodity option: *Provided,* That for purposes of § 1.17, the term "strike price" means the total price at which a person may purchase or sell the contract of sale of a commodity for future delivery or the physical which is the subject of a commodity option *(i.e.,* price per unit times the number of units).

(ll) *Physical.* This term means any good, article, service, right or interest upon which a coimmodity option may be traded in accordance with the Act and these regulations.

2. Section 1.17 is amended by revising paragraphs (c)(1)(iii), (c)(5)(ii)(A), (c)(5)(x), (c)(5)(x)(D) and (c)(5)(xi) to read as follows: §1.17 Minimum financial requirements—futures commission merchants.

* * * * *

(c) * * *

(1) * * *

(iii) The value attributed to any commodity option which is not traded on a contract market shall be the difference between the option's strike price and the market value for the physical or futures contract which is the subject of the option. In the case of a call commodity option which is not traded on a contract market, if the market value for the physical or futures contract which is the subject of the option is less than the strike price of the option, it shall be given no value. In the case of a put commodity option which is not traded on a contract market, if the market value for the physical or futures contract which is the subject of the option is more than the strike price of the option, it shall be given no value; and

* * * * *

(5) * * *

(ii) * * *

(A) Inventory which is currently registered as deliverable on a contract market and covered by an open futures contract or by a commodity option on a physical.—No charge.

* * * * *

(x) In the case of open futures contracts and granted (sold) commodity options held in proprietary accounts carried by the applicant or registrant which are not covered by a position held by the applicant or registrant or which are not the result of a "changer trade" made in accordance with the rules of a contract market:

* * * * *

(D) For open contracts or granted (sold) commodity options for which there are no applicable maintenance margin requirements, 200 percent of the applicable initial margin requirement: *Provided,* the equity in any such proprietary account shall reduce the deduction required by this paragraph (c)(5)(x) if the such equity is not otherwise includable in adjusted net capital;

(xi) In the case of an applicant or registrant which is a purchaser of a commodity option not traded on a contract market which has value and such value is used to increase adjusted net capital, ten percent of the market value of the physical or futures contract which is the subject of such option but in no event more than the value attributed to such option;

* * * * *

3. Section 1.19 is revised to read as follows:

§ 1.19 Prohibited trading in certain options.

No futures commission merchant may make, underwrite, issue, or otherwise assume any financial responsibility for the fulfillment of, any commodity option except for commodity options traded on or subject to the rules of a contract market in accordance with the requirements of Part 33 of this chapter.

4. Section 1.22 is revised to read as follows:

§ 1.22 Use of customer funds restricted.

No futures commission merchant shall use, or permit the use of, the customer funds of one commodity and/or option customer to purchase, margin, or settle the trades, contracts, or commodity options of, or to secure or extend the credit of, any person other than such customer or option customer. Customer funds shall not be used to carry trades or positions of the same commodity and/or option customer other than in commodities or commodity options

traded throught the facilities of a contract market.

5. Section 1.33 is amended by adding paragraph (a)(1)(iv), by revising paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), (b)(2)(v), (b)(3), by removing and reserving paragraph (d)(2), and by revising paragraph (e) to read as follows:

§ 1.33 Monthly and confirmation statements.

(a) * * *

(1) * * *

(iv) A detailed accounting of all financial charges and credits to the commodity customer's account during the monthly reporting period, including all customer funds received from or disbursed to the commodity customer and realized profits and losses; and

(2) For each option customer—

(i) All commodity options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying futures contract or underlying physical, strike price, transaction date, and expiration date;

(ii) The open commodity option positions carried for the option customer as of the end of the monthly reporting period, identified by underlying futures contract or underlying physical, strike price, transaction date, and expiration date;

* * * * *

(b) * * *

(2) * * *

(iv) The underlying futures contract or underlying physical;

(v) The final exercise date of the commodity option purchased or sold; and

* * * * *

(3) To each option customer, upon the expiration or exercise of any commodity option, a written confirmation statement thereof, which statement shall include the date of such occurrence, a description of the option involved, and, in the case of exercise, the details of the futures or physical position which resulted therefrom including, if applicable, the final trading date of the contract for future delivery underlying the option.

* * * * *

(d) * * *

(2) [Reserved]

* * * * *

(e) *Recordkeeping.* Each futures commission merchant shall retain, in accordance with § 1.31, a copy of each monthly statement and confirmation required by this § 1.33.

6. Section 1.34 is amended by revising paragraph (b) to read as follows:

§ 1.34 Monthly record, "point balance."

* * * * *

(b) Each futures commission merchant shall prepare, and retain in accordance with the requirements of § 1.31, a listing in which all open commodity option positions carried for option customers are marked to the market. Such listing shall be prepared as of the last business day of each month, or as of any regular monthly date selected, and shall be by put or by call, by underlying contract for future delivery (by delivery month) or underlying physical (by option expiration date), and by strike price.

7. Section 1.35 is amended by revising paragraphs (b)(2)(ii), (b)(3)(ii), (d) and (e) to read as follows:

§ 1.35 Records of cash commodity, futures, and option transactions.

* * * * *

(b) * * *

(2) * * *

(ii) All commodity option transactions executed for such account, including the date, whether the transaction involved a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, and details of the purchase price of the option, including premium, mark-up, commission and fees; and

(3) * * *

(ii) All commodity option transactions executed on that day, including the date, whether the transaction involved a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, details of the purchase price of the option, incuding premium, mark-up, commission and fees, and the person for whom such transaction was made.

* * * * *

(d) *Members of contract markets.* Each member of a contract market who, in the place provided by the contract market for the meeting of persons similarly engaged, executes purchases or sales of any commodity for future delivery or commodity option on or subject to the rules of such contract market, shall prepare regularly and promptly a trading card or record showing such purchases and sales. Such trading card or record shall show his own name, the name of the clearing member, transaction date, time period (as described in paragraph (g) of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, and strike price. Such trading card or record shall also clearly identify the opposite floor broker or floor trader with whom such transaction was executed, and the opposite clearing member (if, in accordance with the rules or practice of the contract market, such opposite clearing member is made known to him).

(e) *Contract markets.* Each contract market shall maintain or cause to be maintained by its clearing organization a single record which shall show for each futures or option trade: the transaction date, time period (as described in paragraph (g) of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, strike price, floor broker of floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, and symbols indicating the buying and selling customer or option customer types. The customer and option customer type indicators shall show, with respect to each person executing the trade whether such person:

(1) Was trading for his own account;

(2) Was trading for his clearing member's house account;

(3) Was trading for another member present on the exchange floor, or an account controlled by such other member; or

(4) Was trading for any other type of customer or option customer.

The record required by this paragraph (e) shall also show, by appropriate and uniform symbols, any transaction which is made non-competitively in accordance with written rules of the contract market which have been submitted to and approved by the Commission in accordance with § 1.38, and trades cleared on dates other than the date of execution. Except as otherwise approved by the Commission for good cause shown, the record required by this paragraph (e) shall be maintained in a format and coding structure approved by the Commission (i) in hard copy or on microfilm as specified in § 1.31 and (ii) for 60 days in computer-readable form on compatible magnetic tapes or discs.

* * * * *

8. Section 1.39 is amended by revising paragraph (a) to read as follows:

§ 1.39 Simultaneous buying and selling orders of different principals; execution of, for and between principals.

(a) *Conditions and requirements.* A member of a contract market who shall have in hand at the same time both buying and selling orders of different principals for the same commodity for future delivery in the same delivery

month or the same option (both puts or both calls, with the same underlying contract for future delivery or the same underlying physical, expiration date and strike price) may execute such orders for and directly between such principals at the market price, if in conformity with written rules of such contract market which have been approved by the Commission, and:

(1)(i) When trading is conducted in a trading pit or ring, such orders are first offered openly and competitively by open outcry in such trading pit or ring (A) by both bidding and offering at the same price, and neither such bid nor offer is accepted, or (B) by bidding and offering to a point where such offer is higher than such bid by not more than the minimum permissible price fluctuation applicable to such futures contract or commodity option on such contract market, and neither such bid nor offer is accepted; or

(ii) When in nonpit trading in contracts of sale for future delivery, bids and offers are posted on a board, such member (A) pursuant to such buying order posts a bid on the board and, incident to the execution of such selling order, accepts such bid and all other bids posted at prices equal to or higher than the bid posted by him, or (B) pursuant to such selling order posts an offer on the board and, incident to the execution of such buying order, accepts such offer and all other offers posted at prices equal to or lower than the offer posted by him;

(2) Such member executes such orders in the presence of an official representative of such contract market designated to observe such transactions and, by appropriate descriptive words or symbol, clearly identifies all such transactions on his trading card or other similar record, made at the time of execution, and notes thereon the exact time of execution and promptly presents said record to such official representative for verification and initialing;

(3) Such contract market keeps a record in permanent form of each such transaction showing the transaction date, by whom executed, the exact time of execution, quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, whether a put or a call, and strike price; and

(4) Neither the futures commission merchant receiving nor the member executing such orders has any interest therein, directly or indirectly, except as a fiduciary.

* * * * *

9. Section 1.41 is amended by revising paragraph (a)(2) to read as follows:

§ 1.41 Contract market rules; submission of rules to Commission; exemption of temporary emergency rules and certain operational and administrative rules; emergencies.

(a) * * *

(2) The term "reviewable rule" of a contract market means any rule of a contract market which relates to terms and conditions of contracts of sale of a commodity for future delivery or of commodity option transactions to be executed on or subject to the rules of such contract market or relates to other trading requirements except those relating to the setting of levels of margin: *Provided,* That any rule of a contract market relating to the payment or collection of commodity option margin or premiums shall be a reviewable rule.

* * * * *

10. Section 1.42 is amended by revising paragraph (a) and by adding a new paragraph (c) to read as follows:

§ 1.42 Delivery notice; filing of copy.

(a) Each contract market shall furnish or cause to be furnished promptly to the Commission a copy of each notice of delivery issued by any member thereof covering the delivery of any commodity on a futures contract or on a commodity option made on or subject to the rules of such contract market, and shall also furnish or cause to be furnished promptly to the Commission a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made.

* * * * *

(c) For the purposes of this section, the term "delivery" includes the exercise of a commodity option on a physical but does not include any futures contract or option on a physical which is settled in cash rather than by delivery of the underlying commodity or underlying physicals.

11. Section 1.43 is revised to read as follows:

§ 1.43 Information required concerning warehouses, depositories, and other similar entities.

Each contract market shall file with the Commission a list of all warehouses, depositories and other similar entities in which or out of which commodities are deliverable in satisfaction of futures contracts or options on physicals made on or subject to the rules of such contract market, which list shall show the name, location, and storage capacity of each such warehouse, depository or other similar entity, together with the name and business address of the operator thereof. The Commission shall be kept currently advised of all changes affecting such information. Each contract market shall require the operator of such warehouse, depository or other similar entity to furnish, upon call by the Commission, a schedule of storage charges, handling charges, and the annual fire insurance rate applicable to such warehouse, depository or other similar entity.

12. Section 1.44 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.44 Records and reports of warehouses, depositories, and other similar entities; visitation of premises.

Each contract market shall require the operators of warehouses, depositories and other similar entities whose receipts are deliverable in satisfaction of commodity futures contracts or options on physicals made on or subject to the rules of such contract market:

(a) To keep records showing the stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market in store in such warehouses, depositories and other similar entities by kinds, by classes, and by grades, if stored under conditions requiring such designation or identification, and including also lots and parcels stored specially or separately or in specially leased space of the warehouse, depository or other similar entity;

(b) Upon call from the Commission, to report the stocks of commodities in such warehouses, depositories and other similar entities and to furnish information concerning stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market about to be transferred or in the process of being transferred or otherwise moved into or out of such warehouses, depositories and other similar entities, as well as any other information concerning commodities stored in such warehouse, depositories and other similar entities and which are or may be available for delivery on futures contracts or options on physicals; and

* * * * *

13. Section 1.46 is amended by revising paragraphs (a)(3), (a)(4), the closing text of paragraph (a), and paragraph (d)(1), to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

(a) * * *

(3) Purchases a put or call option for the account of any option customer

when the account of such option customer at the time of such purchase has a short put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that purchased; or

(4) Sells a put or call option for the account of any option customer when the account of such option customer at the time of such sale has a long put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that sold

shall on the same day apply such purchase or sale against such previously held short or long futures or option position, as the case may be, and shall, for futures transactions, promptly furnish such customer a statement showing the financial result of the transactions involved.

* * * * *

(d) * * *

(1) Purchases or sales of commodity options held by commercial interests in the underlying commodity, where such purchases or sales are determined by the contract market to be economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise pursuant to rules of the contract market which have been adopted in accordance with the requirements of § 1.61(b) and approved by the Commission pursuant to Section 5a(12) of the Act: *Provided,* that no contract market or futures commission merchant shall permit such option positions to be offset other than by open and competitive execution in the trading pit or ring provided by the contract market, during the regular hours prescribed by the contract market for trading in such commodity option.

* * * * *

PART 3—REGISTRATION

14. The authority citation for Part 3 is revised to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p and 12a.

15. Section 3.20 is amended by revising paragraphs (a)(1)(ii) and (a)(1)(iii) to read as follows:

§ 3.20 Delegation of authority to deny registration.

(a) * * *

(1) * * *

(ii) Within ten years preceding the filing of the application has been convicted of a misdemeanor which (A) involves any transaction or advice concerning any commodity, contract for future delivery of a commodity, commodity option, or security; (B) arises out of the conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or employee or affiliated person of any of the foregoing; or (C) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes reflecting upon the ability of the applicant, if registered, faithfully to discharge the fiduciary duties imposed by the Act; or

(iii) At the time of the application, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or is prohibited by agreement or settlement with the Commission or the Securities and Exchange Commission, or any State agency or governmental body, (A) from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, securities broker or dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing, or (B) from engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, or securities; or

* * * * *

16. Section 3.33 is amended by revising paragraphs (b)(7)(i), (b)(7)(ii), (b)(7)(iii), and (b)(7)(v) to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(b) * * *

(7) * * *

(i) That all customer or option customer agreements, if any, have been terminated;

(ii) That all customer or option customer positions, if any, have been transferred on behalf of customers or option customers or closed;

(iii) That all customer or option customer cash balances, securities, or other property, if any, have been transferred on behalf of customers or option customers or returned, and that there are no obligations to customers or option customers outstanding;

* * * * *

(v) The nature and extent of any pending customer, option customer or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer, option customer or commodity pool participant claims against the registrant.

* * * * *

17. Appendix A is amended by revising paragraphs (1), (3) and (4) to read as follows:

* * * * *

(1) The operations of such person disrupt or would tend to disrupt orderly market conditions, or cause or would tend to cause sudden or unreasonable fluctuations or unwarranted changes in the price of commodities or contracts for future delivery of commodities or commodity options.

* * * * *

(3) Such person has, within ten years preceding the filing of the application for registration, been convicted of a misdemeanor which (a) involves any transactions or advice concerning any commodity, contract for future delivery of a commodity, commodity option or security; or (b) arises out of conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (c) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes indicating a lack of high ethical standards or unreliability in maintaining a fiduciary relationship.

(4) Such person is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or by agreement of settlement to which the Commission, the Securities and Exchange Commission, or any State agency or governmental body is a party, from (a) acting as a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company or employee or affiliated person of any of the foregoing or (b) engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, or securities.

* * * * *

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

18. Section 4.13 is amended by revising paragraph (b)(2)(i)(B) to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) Clearly show on such statement, or on an accompanying supplemental statement, the net profit or loss on all commodity interests closed since the date of the previous statement; and

* * * * *

19. Section 4.21 is amended by revising paragraphs (a)(1)(vi) and (a)(1)(vii), by adding a new paragraph (a)(1)(viii), and by revising paragraphs (a)(9)(ii), (a)(9)(iii) and (a)(17)(i) to read as follows:

§ 4.21 Disclosure to prospective pool participants.

(a) * * *

(1) * * *

(vi) The name of the person who will make the trading decisions for the pool;

(vii) If known, the name of the futures commission merchant through which the pool will execute its trades; and

(viii) The types of commodity interests the commodity pool operator intends that the pool will trade, with a description of any restrictions or limitations on such trading established by the commodity pool operator.

* * * * *

(9) * * *

(ii) The form in which pool funds not deposited as margin or paid as premiums will be held after the commencement of trading by the pool. If those funds will be held in assets other than cash, the pool operator must disclose:

* * * * *

(iii) If pool funds not deposited as margin or paid as premiums will be held outside of the United States, its territories or possessions, the pool operator must specify where those funds will be held.

* * * * *

(17)(i) The following Risk Disclosure Statement, to be prominently disclosed as, and the only language on, the first page of the Disclosure Document:

RISK DISCLOSURE STATEMENT

YOU SHOULD CAREFULLY CONSIDER WHETHER YOUR FINANCIAL CONDITION PERMITS YOU TO PARTICIPATE IN A COMMODITY POOL. YOU MAY LOSE A SUBSTANTIAL PORTION OR EVEN ALL OF THE MONEY YOU PLACE IN THE POOL.

IN CONSIDERING WHETHER TO PARTICIPATE IN A COMMODITY POOL, YOU SHOULD BE AWARE THAT TRADING COMMODITIES CAN QUICKLY LEAD TO LARGE LOSSES AS WELL AS GAINS. SUCH TRADING LOSSES CAN SHARPLY REDUCE THE NET ASSET VALUE OF THE POOL AND CONSEQUENTLY THE VALUE OF YOUR INTEREST IN THE POOL. ALSO, MARKET CONDITIONS MAY MAKE IT DIFFICULT OR IMPOSSIBLE FOR THE POOL TO LIQUIDATE A POSITION.

IN SOME CASES, COMMODITY POOLS ARE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT, ADVISORY AND BROKERAGE FEES. IT MAY BE NECESSARY FOR THOSE POOLS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS A COMPLETE DESCRIPTION OF EACH EXPENSE TO BE CHARGED THIS POOL.

THIS BRIEF STATEMENT CANNOT DISCLOSE ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF PARTICIPATING IN A COMMODITY POOL. YOU SHOULD THEREFORE CAREFULLY STUDY THIS DISCLOSURE DOCUMENT AND COMMODITY TRADING BEFORE YOU DECIDE TO PARTICIPATE IN A COMMODITY POOL.

* * * * *

20. Section 4.22 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 4.22 Reporting to pool participants.

(a) * * *

(1) * * *

(iii) The total amount of net gain or loss from all other transactions in which the pool engaged during the reporting period, including interest and dividends earned on funds not paid as premiums or used to margin the pool's commodity interest positions;

* * * * *

21. Section 4.23 is amended by revising paragraphs (a)(1), (a)(7), (b)(1) and (b)(2) to read as follows:

§ 4.23 Recordkeeping.

* * * * *

(a) * * *

(1) An itemized daily record of each commodity interest transaction of the pool, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

* * * * *

(7) Copies of each confirmation of a commodity interest transaction of the pool, each purchase and sale statement and each monthly statement for the pool received from a futures commission merchant.

* * * * *

(b) * * *

(1) An itemized daily record of each commodity interest transaction of the commodity pool operator and each principal thereof, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

(2) Each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement furnished by a futures commission merchant to (i) the commodity pool operator relating to a personal account of the pool operator, and (ii) each principal of the pool operator relating to a personal account of such principal.

* * * * *

22. Section 4.30 is revised to read as follows:

§ 4.30 Prohibited activities.

No commodity trading advisor may solicit, accept or receive from an existing or prospective client funds, securities or other property in the trading advisor's name (or extend credit in lieu thereof) to purchase, margin, guarantee or secure any commodity interest of the client; *Provided, however,* That this section shall not apply to a futures commission merchant that is registered as such under the Act or to a leverage transaction merchant that is registered as a commodity trading advisor under the Act.

23. Section 4.31 is amended by revising paragraphs (a)(1)(iii) and (a)(1)(iv)(B), by adding a new paragraph (a)(1)(v), and by revising paragraph (a)(8)(i) to read as follows:

§ 4.31 Disclosure to prospective clients.

(a) * * *

(1) * * *

(iii) A description of the trading program;

(iv) * * *

(B) If the client is free to choose the futures commission merchant with which it will maintain its account, the trading advisor must make a statement to that effect; and

(v) The types of commodity interests the commodity trading advisor intends to trade, with a description of any restrictions or limitations on such trading established by the commodity trading advisor.

* * * * *

(8)(i) The following Risk Disclosure Statement to be prominently disclosed as, and the only language on, the first page of the Disclosure Document:

RISK DISCLOSURE STATEMENT

THE RISK OF LOSS IN TRADING COMMODITIES CAN BE SUBSTANTIAL. YOU SHOULD THEREFORE CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR FINANCIAL CONDITION. IN CONSIDERING WHETHER TO TRADE OR TO AUTHORIZE SOMEONE ELSE TO TRADE FOR YOU, YOU SHOULD BE AWARE OF THE FOLLOWING:

(1) IF YOU PURCHASE A COMMODITY OPTION YOU MAY SUSTAIN A TOTAL LOSS OF THE PREMIMUM AND OF ALL TRANSACTION COSTS.

(2) IF YOU PURCHASE OR SELL A COMMODITY FUTURE OR SELL A COMMODITY OPTION YOU MAY SUSTAIN A TOTAL LOSS OF THE INITIAL MARGIN FUNDS AND ANY ADDITIONAL FUNDS THAT YOU DEPOSIT WITH YOUR BROKER TO ESTABLISH OR MAINTAIN YOUR POSITION. IF THE MARKET MOVES AGAINST YOUR POSITION, YOU MAY BE CALLED UPON BY YOUR BROKER TO DEPOSIT A SUBSTANTIAL AMOUNT OF ADDITIONAL MARGIN FUNDS, ON SHORT NOTICE, IN ORDER TO MAINTAIN YOUR POSITION. IF YOU DO NOT PROVIDE THE REQUIRED FUNDS WITHIN THE PRESCRIBED TIME, YOUR POSITION MAY BE LIQUIDATED AT A LOSS, AND YOU WILL BE LIABLE FOR ANY RESULTING DEFICIT IN YOUR ACCOUNT.

(3) UNDER CERTAIN MARKET CONDITIONS, YOU MAY FIND IT DIFFICULT OR IMPOSSIBLE TO LIQUIDATE A POSITION. THIS CAN OCCUR, FOR EXAMPLE, WHEN THE MARKET MAKES A "LIMIT MOVE."

(4) THE PLACEMENT OF CONTINGENT ORDERS BY YOU OR YOUR TRADING ADVISOR, SUCH AS A "STOP-LOSS" OR "STOP-LIMIT" ORDER, WILL NOT NECESSARILY LIMIT YOUR LOSSES TO THE INTENDED AMOUNTS, SINCE MARKET CONDITIONS MAY MAKE IT IMPOSSIBLE TO EXECUTE SUCH ORDERS.

(5) A "SPREAD" POSITION MAY NOT BE LESS RISKY THAN A SIMPLE "LONG" OR "SHORT" POSITION.

(6) THE HIGH DEGREE OF LEVERAGE THAT IS OFTEN OBTAINABLE IN COMMODITY TRADING CAN WORK AGAINST YOU AS WELL AS FOR YOU. THE USE OF LEVERAGE CAN LEAD TO LARGE LOSSES AS WELL AS GAINS.

IN SOME CASES, MANAGED COMMODITY ACCOUNTS ARE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT AND ADVISORY FEES. IT MAY BE NECESSARY FOR THOSE ACCOUNTS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS A COMPLETE DESCRIPTION OF EACH FEE TO BE CHARGED TO YOUR ACCOUNT BY THE COMMODITY TRADING ADVISOR.

THIS BRIEF STATEMENT CANNOT DISCLOSE ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF THE COMMODITY MARKETS. YOU SHOULD THEREFORE CAREFULLY STUDY THIS DISCLOSURE DOCUMENT AND COMMODITY TRADING BEFORE YOU TRADE.

* * * * *

24. Section 4.32 is amended by revising paragraphs (a)(6), (b)(1) and (b)(2) to read as follows:

§ 4.32 Recordkeeping.

(a) * * *

(6) Copies of each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement received from a futures commission merchant.

* * * * *

(b) * * *

(1) An itemized daily record of each commodity interest transaction of the commodity trading advisor and each principal thereof, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

(2) Each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement furnished by a futures commission merchant to (i) the commodity trading advisor relating to a personal account of the trading advisor, and (ii) each principal of the trading advisor relating to a personal account of such principal.

* * * * *

PART 15—REPORTS—GENERAL PROVISIONS

25. Section 15.00 is amended by revising paragraph (b)(2) and redesignating paragraph (b)(2) as paragraph (b)(2)(i), by adding paragraph (b)(2)(ii), and by revising paragraphs (g) and (h) to read as follows:

§ 15.00 Definition of terms used in Parts 15 to 21 of this chapter.

* * * * *

(b) * * *

(2) For purposes of reports regarding commodity options—

(i) For reports specified in Part 16 and in § 17.01 of this chapter, any open contract position on any one contract market in the put option or separately in the call option of a specified option expiration date, which is carried on the books of any one futures commission merchant or foreign broker or which is held by a member of a contract market, and which, at the close of the market on any business day, equals or exceeds 25 options on futures contracts or 25 options on physicals, except as otherwise approved by the Commission.

(ii) For reports specified in §§ 18.00 and 18.04 of this chapter, and for recordkeeping requirements specified in § 18.05 of this chapter, 25 or more open options on futures contracts or 25 or more open options on physicals on any one contract market in a put option or separately in a call option of a specified option expiration date.

* * * * *

(g) *"Guided account program"* means any customer trading program which limits trading to the purchase or sale of a particular contract for future delivery of a commodity or a particular commodity option that is advised or recommended to the participant in the program.

(h) *"Discretionary account"* means a commodity futures or commodity option trading account for which buying and/or selling orders can be placed or

originated, or for which transactions can be effected, under a general authorization and without the specific consent of the customer, whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

* * * * *

26. Section 15.01 is amended by revising paragraph (c) to read as follows:

§ 15.01 Persons required to report.

* * * * *

(c) Traders who hold or control reportable positions as specified in Part 18 of this chapter.

* * * * *

27. Section 15.02 is revised to read as follows:

§ 15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission. Forms to be used for the filing of reports are listed below, and persons required to file these forms may be determined by referring to the rule listed in the column opposite the form number.

Form No.	Title	Rule
40	Statement of Reporting Trader	18.04
102	Identification of Special Accounts	17.01
103	Large Trader Report	18.00
Series 04	Cash Positions of Traders in Specified Commodities.	19.00
	204—Grains (including Oilseeds)	
	304—Cotton	
	504—Eggs	
	604—Potatoes	
Series 01	Positions of Special Accounts on or Subject to the Rules of Specified Markets.	17.00
	01-60—Board of Trade of the City of Chicago.	
	01-61—Board of Trade of the City of Kansas City, Missouri, Inc.	
	01-62—Minneapolis Grain Exchange	
	01-63—MidAmerica Commodity Exchange.	
	01-64—Chicago Mercantile Exchange	
	01-65—New York Mercantile Exchange.	
	01-66—New York Cotton Exchange and Associates.	
	01-69—Commodity Exchange, Inc.	
	01-73—Coffee, Sugar and Cocoa Exchange.	
	01-74—International Monetary Market	
	01-77—New York Futures Exchange	
	01-78—New Orleans Commodity Exchange.	

28. Section 15.05 is revised to read as follows:

§ 15.05 Designation of a futures commission merchant to be the agent of foreign brokers, customers of a foreign broker, and foreign traders.

(a) For purposes of this section, the term "futures contract" means any contract for the purchase or sale of any commodity for future delivery traded or executed on or subject to the rules of any contract market; the term "option contract" means any contract for the purchase or sale of a commodity option traded or executed on or subject to the rules of any contract market; the term "customer" means any person for whose benefit a foreign broker makes or causes to be made any futures contract or option contract; and the term "communication" means any summons, complaint, order, subpoena, special call, request for information, or notice, as well as any other written document or correspondence.

(b) Any futures commission merchant who makes or causes to be made any futures contract or option contract for the account of any foreign broker or foreign trader shall thereupon be deemed to be the agent of the foreign broker or the foreign trader for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the foreign broker or the foreign trader with respect to any futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. In the case of a futures commission merchant who makes or causes to be made any futures or option contract for the account of a foreign broker, the futures commission merchant shall also be the agent of the customers of the foreign broker (including any customer who is also a foreign broker and its customers) who have positions in the foreign broker's futures or option contract account carried by the futures commission merchant for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the customer with respect to any futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. Service or delivery of any communication issued by or on behalf of the Commission to a futures commission merchant pursuant to such agency shall constitute valid and effective service or delivery upon the foreign broker, a customer of the foreign broker or the foreign trader. A futures commission merchant who has been served with, or to whom there has been delivered, a communication issued by or on behalf of the Commission to a foreign broker, a customer of the foreign broker or the foreign trader shall transmit the communication promptly and in a manner which is reasonable under the circumstances, or in a manner specified by the Commission in the communication, to the foreign broker, a customer of the foreign broker or the foreign trader.

(c) It shall be unlawful for any futures commission merchant to open a futures or options contract account for, or to effect transactions in futures contracts or option contracts for an existing account of, a foreign broker or foreign trader unless the futures commission merchant informs the foreign broker or foreign trader prior thereto, in any reasonable manner which the futures commission merchant deems to be appropriate, of the requirements of this section.

(d) The requirements of paragraphs (b) and (c) of this section shall not apply to any account carried by a futures commission merchant if the foreign broker, customer of a foreign broker, or foreign trader for whose benefit such account is carried has duly executed and maintains in effect a written agency agreement in compliance with this paragraph with a person domiciled in the United States and has provided a copy of the agreement to the futures commission merchant prior to the opening of an account, or placing orders for transactions in futures contracts or option contracts of an existing account, with the futures commission merchant. This agreement must authorize the person domiciled in the United States to serve as the agent of the foreign broker and customers of the foreign broker or the foreign trader for purposes of accepting delivery and service of all communications issued by or on behalf of the Commission to the foreign broker, customers of the foreign broker, or foreign trader and must provide an address in the United States where the agent will accept delivery and service of communications from the Commission. This agreement must be filed with the Commission by the futures commission merchant prior to opening an account for the foreign broker or foreign trader or effecting transactions in futures or option contracts for an existing account of a foreign broker or foreign trader. Unless otherwise specified by the Commission, the agreements required to be filed with the Commission shall be filed with the Secretary of the Commission at 2033 K Street, N.W., Washington, D.C. 20581. A foreign broker, customer of a foreign broker, or foreign trader shall notify the Commission immediately if the written agency agreement is terminated, revoked or is otherwise no longer in effect. If a futures commission merchant carrying an account for a foreign broker or foreign trader knows or should know that the agreement has expired, has been terminated or is otherwise no longer in effect, the futures commission merchant shall notify the Secretary of

the Commission immediately. If the written agency agreement expires, terminates or is not in effect, the futures commission merchant and the foreign broker, customers of the foreign broker or foreign trader are subject to the provisions of paragraphs (b) and (c) of this section.

PART 16—REPORTS BY CONTRACT MARKETS

29. Section 16.00 is amended by revising paragraph (a) to read as follows:

§ 16.00 Clearing member reports.

(a) *Information to be provided.* Each contract market shall submit to the Commission, in accordance with paragraph (b) of this section, a report for each business day, showing for each clearing member, by proprietary and customer account, the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

30. Section 16.01 is amended by revising the introductory text of paragraphs (a) and (b) and by revising paragraphs (c) and (d) to read as follows:

§ 16.01 Trading volume, open contracts and price.

(a) *Trading volume and open contracts.* Each contract market shall publish for each business day the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

(b) *Prices.* Each contract market shall make readily available to the news media and the general public no later than the business day following the day to which the information pertains, the following information separately for futures, by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

(c) *Additional information.* Each contract market shall make readily available to the public, in printed form at the office of the contract market, the following information with respect to transactions in commodity futures and commodity options on that contract market: (1) The method used by the contract market in determining nominal prices and settlement prices; and (2) if discretion is used by the contract market in determining the opening and closing ranges or the settlement prices, an explanation that certain discretion may be employed by the contract market and a description of the manner in which that discretion may be employed.

(d) *Reports to the Commission.* Unless otherwise approved by the Commission or its designee, the information specified in paragraphs (a) and (b) of this section shall be submitted to the Commission on compatible data processing punched cards, magnetic tapes or magnetic discs using a format and coding structure approved in writing by the Commission or its designee. Unless otherwise instructed by the Commission or its designee, such information shall be submitted the business day following the day to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

31. Section 16.02 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 16.02 Large option trader reports.

(a) *Information required.* When an option becomes the option which will expire next, and, in any case, at least six weeks prior to an option's expiration date, each contract market shall submit to the Commission a weekly report for options on futures and options on physicals that are settled in cash and, unless otherwise determined by the Commission, a daily report for all other options on physicals, containing the following information for each option trader controlling a reportable option position in the option which will expire next or controlling a reportable option position in an option which will expire in six weeks or less:

(1)(i) For options on futures contracts and options on physicals that are settled in cash, with respect to each put and call and each long and short controlled by the option trader, the following information shown separately by futures commission merchant or member of the contract market and combined for all futures commission merchants and members:

(A) All reportable positions in the option which is next to expire, by strike price;

(B) All reportable positions in any other options which expire within six weeks, by strike price;

(C) All reportable positions in the next-deferred option expiration date, regardless of strike prices;

(D) All reportable positions in all other more distant option expiration dates, regardless of strike prices; and

(E) The total reportable position controlled by the option trader in all option expiration dates, regardless of strike prices.

(ii) Unless otherwise determined by the Commission, for all other options on physicals, with respect to each put and call and each long and short controlled by the option trader, the following information shown separately by futures commission merchant or member of the contract market and combined for all futures commission merchants and members:

(A) All reportable positions in the option which is next to expire, by strike price, and the number of contracts exercised;

(B) All reportable positions in any other options which expire within six weeks, by strike price, and the number of contracts exercised;

(C) All reportable positions in the next-deferred option expiration date, regardless of strike prices, and the number of contracts exercised;

(D) All reportable positions in all other more distant option expiration dates, regardless of strike prices, and the number of contracts exercised; and

(E) The total reportable position controlled by the option trader in all option expiration dates, regardless of strike prices, and the total number of contracts exercised.

(iii) Each contract market shall identify all option positions controlled by the same trader which are carried at the same futures commission merchant or held by a member of the contract market by use of the number which is assigned by the futures commission merchant or member in accordance with § 17.01(a) of this chapter.

* * * * *

(b) *Form and manner of reporting.* The information required by paragraph (a) of this section shall be submitted in hard copy form and on compatible data processing punched cards, magnetic tapes or magnetic discs, using a format and coding structure approved in writing by the Commission or its designee. For options on futures and for options on physicals that are settled in cash, such information shall be compiled weekly as of the close of business on Tuesday, or Monday if Tuesday is a holiday, or more frequently than weekly as the Commission may direct. Unless otherwise instructed by the Commission or its designee, the information shall be

submitted by the business day following that to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

32. Section 16.04 is amended by revising paragraph (a) to read as follows:

§ 16.04 Month-end reports.

(a) *Information to be provided.* Each contract market shall submit to the Commission, for each month, a report for options on futures contracts and separately a report for options on physicals showing long and short open option positions held at month-end in all accounts, reported separately by underlying futures contract or physical, for commercial and noncommercial option traders, by put, by call, by expiration date, by strike price and by clearing member.

* * * * *

PART 18—REPORTS BY TRADERS

33. Section 18.00 is amended by revising the introductory paragraph, paragraphs (a), (b), (c) and(d) and by removing paragraphs (e), (f), (g) and (h) to read as follows:

§ 18.00 Information to be furnished by traders.

Every trader who owns, holds or controls, or has held, owned or controlled, a reportable futures or options position in a commodity shall within one business day after a special call upon such trader by the Commission or its designee file reports to the Commission concerning transactions and positions in such futures or options. Reports shall be filed for the period of time that the trader held or controlled a reportable position as instructed in the call. Each such report shall be prepared on the Commission's Large Trader Reporting Form (Form 103) on a separate sheet for each commodity or option, and shall show for the day covered by the report the following information, as specified in the call, separately for each future or option and for each contract market:

(a) Open contracts;

(b) Purchases and sales;

(c) Delivery notices issued and stopped; and

(d) Options exercised.

§ 18.01 [Amended]

34. Section 18.01 is amended by removing paragraph (d).

35. Section 18.04 is amended by revising the introductory paragraph and paragraphs (a)(2), (a)(5), (a)(9), (b)(3), (b)(4), (c)(3), (c)(4), (c)(5), (c)(6), and (d) to read as follows:

18.04 Statement of reporting trader.

Every trader who holds or controls a reportable futures position shall file with the Commission a "Statement of Reporting Trader" on Form 40. Each trader shall file an initial Form 40 at such time as the Commission directs, but not later than the tenth business day following the date the trader assumes the reportable position. Subsequent filings shall be made at the time specified in paragraph (e) of this section. In addition, every trader who holds or controls a reportable option position, as set forth in § 15.00(b)(2)(ii) of this chapter, shall within one business day after a special call upon such trader by the Commission or its designee file a "Statement of Reporting Trader" with respect to such option positions. All traders shall complete Part A of the Form 40 and, in addition, shall complete:

Part B—If the trader is an individual, a partnership or a joint tenant.

Part C—If the trader is a corporation or type of trader other than an individual, partnership, or joint tenant.

(a) * * *

(2) Principal business and occupation of the reporting trader and, in addition, whether transactions are made for, on behalf of, or in association with, a customer trading program of a futures commission merchant, a commodity pool, a producer cooperative, any business activities in which the trader is commercially engaged, or for personal use.

* * * * *

(5) The name and address of each person whose account is controlled by the reporting trader.

* * * * *

(9) The following information concerning accounts which the reporting trader guarantees or in which the trader has a financial interest of ten percent or more if such accounts are in a name other than that of the reporting trader:

* * * * *

(b) * * *

(3) If the trader is self-employed and engaged in the marketing of a cash commodity or in a business activity which is hedged by use of the futures market, or the trader uses the option market in connection with such business, the cash commodity marketed or risk exposure covered, types of associated marketing activities, the option contract used or the futures contract used for hedging.

(4) The name, address, and type of any organization in which the reporting trader participates in the management if such organization holds another futures or option trading account.

* * * * *

(c) * * *

(3) Names and locations of all subsidiary firms that trade in commodity futures or options and whether or not the subsidiary firms are organized under the law of any state (including the District of Columbia) or territory or possession of the United States.

(4) Name, address, and business telephone number of person(s) actually controlling the trading and, if different persons are responsible for different commodities or options, the commodities or options for which each controller has responsibility.

(5) Name, office address and business telephone number of person or persons to contact regarding trading.

(6) If the firm is engaged in the marketing of a cash commodity or in a business activity which is hedged by using the futures markets, or the firm uses the option market in conjunction with such business, the cash commodity marketed or risk exposure covered, types of associated marketing activities, and the option contracts used or the futures contracts used for hedging.

(d) *Updating reports.* If at the time a trader holds or controls a reportable futures position and (1) the trader has not filed a Form 40 during the previous twelve months or (2) a Form 40 previously filed by the trader is no longer accurate because, since the previous filing, there has been a change in the information required under paragraph (a)(1), (a)(2), (a)(3), (a)(5), (a)(6), (a)(8), (a)(9), (a)(10), (b) or (c) of this section, the trader shall file an updated Form 40 with the Commission not later than 10 calendar days after the expiration of such twelve month period or after such change occurs, as the case may be.

36. Section 18.05 is revised to read as follows:

§ 18.05 Maintenance of books and records.

Every trader who holds or controls a reportable futures or option position shall keep books and records showing all details concerning all positions and transactions for future delivery in the commodity on all contract markets, all positions and transactions in the commodity option, and all positions and transactions in the cash commodity, its products and byproducts and, in addition, commercial activities that the trader hedges in the commodity underlying the futures contract in which the trader is reportable, and shall upon

request furnish to the Commission any pertinent information concerning such positions, transactions or activities.

PART 21—SPECIAL CALLS FOR INFORMATION FROM CONTRACT MARKETS, FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS, AND FOREIGN BROKERS

37. Section 21.02 is revised to read as follows:

§ 21.02 Special calls for information on open contracts in accounts carried by futures commission merchants, members of contract markets, and foreign brokers.

Upon special call by the Commission for information relating to futures and/or option positions held on the dates specified in the call, each futures commission merchant, member of a contract market, or foreign broker, and, in addition, for options information, each contract market, shall furnish to the Commission the following information concerning accounts of traders owning or controlling such futures and/or options positions as may be specified in the call:

(a) The name and address of the person for whom each account is carried:

(b) The principal business or occupation of the person for whom each account is carried, as specified in the call;

(c) The type of each such account;

(d) The name, address and principal business or occupation of any person who controls the trading of each account;

(e) The name and address of any person having a financial interest of ten percent or more in each account;

(f) The number of open futures and/or option positions carried in each account as specified in the call; and

(g) As applicable, the following identifying information:

(1) Whether a trader who holds commodity options is classified as a commercial or as a noncommercial for each commodity option;

(2) Whether the open commodity futures contracts are classified as speculative, spreading (straddling), or hedging; and

(3) Whether any of the accounts in question are omnibus accounts and, if so, whether the originator of the omnibus account is another futures commission merchant or foreign broker.

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

38. Section 32.1 is revised to read as follows:

§ 32.1 Scope of Part 32; definitions.

(a) *Scope.* The provisions of this Part, except for the provisions of §§ 32.8 and 32.9 which shall in any event apply to all commodity option transactions, shall apply to all commodity option transactions except for commodity option transactions conducted or executed on or subject to the rules of a contract market pursuant to Section 4c(c) of the Act and the regulations promulgated thereunder.

(b) *Definitions.* As used in this Part:

(1) "Commodity option transaction" and "commodity option" each means any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty' involving any commodity regulated under the Act other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice;

(2) "Interstate commerce" shall be construed and have the same meaning as set forth in Sections 2(a) and 2(b) of the Act;

(3) "Option customer" means any person who, directly or indirectly, purchases or otherwise acquires for value any interest in a commodity option, but shall not include a person required to register as a futures commission merchant in accordance with this Part;

(4) "Purchase price" means the total actual cost paid or to be paid, directly or indirectly, by an option customer for entering into and maintaining an interest in a commodity option transaction by whatever name called; and

(5) "Striking price" means the price at which an option customer may purchase or sell the commodity or the contract of sale of a commodity for future delivery which is the subject of a commodity option transaction.

39. Section 32.11 is amended by revising paragraph (b) to read as follows:

§ 32.11 Suspension of commodity option transactions.

* * * * *

(b) The provisions of paragraph (a) of this section shall not apply to any commodity option transaction conducted in accordance with the provisions of § 32.4(a) or any commodity option transaction conducted on or subject to the rules of a contract market in accordance with the provisions of Section 4c(c) of the Act and the regulations promulgated thereunder.

* * * * *

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

40. Section 33.2 is amended by revising paragraph (a) to read as follows:

§ 33.2 Applicability of Act and rules; scope of Part 33.

(a) Except as otherwise specified in this Part and unless the context otherwise requires:

(1) Each board of trade designated, or applying for designation, by the Commission as a contract market for the purpose of trading commodity options pursuant to this Part shall be deemed for such purpose to be a "board of trade," "exchange," and a "contract market" and, with respect to commodity option transactions conducted pursuant to such designation, shall comply with and be subject to all of the provisions of the Act relating to boards of trade, exchanges, or contract markets as though such provisions were set forth herein; and

(2) The provisions of Sections 2(a)(1), 2(a)(8)(B), 4, 4a, 4c(a), 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4m, 4n, 5, 5a, 5b, 6, 6a, 6b, 6c, 7, 8(a)–(e), 8a, 8b, 8c, and 16 of the Act shall apply to commodity option transactions that are subject to the requirements of this Part as though such provisions were set forth herein and included specific references to commodity option transactions. Nothing contained in this section shall be construed to confer designation as a contract market absent issuance of an order of the Commission so designating an applicant board of trade.

* * * * *

41. Section 33.3 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 33.3 Unlawful commodity option transactions.

* * * * *

(b) * * *

(1) Any person to solicit or accept orders from an option customer (other than in a clerical capacity) for any commodity option transaction, or to supervise any person or persons so engaged, unless such person is:

* * * * *

(2) Any person registered or required to be registered as a futures commission

merchant under the Act to permit another person to become or remain associated with such person as a partner, officer, employee, agent or representative (or in any status or position involving similar functions) in any capacity involving the solicitation or acceptance of an order from an option customer (other than in a clerical capacity) for any commodity option transaction or the supervision of any person or persons so engaged, if such person knows or should know that such other person is or was not registered as required by this Part or that such registration has expired, been suspended (and the period of suspension has not expired) or been revoked.

42. Section 33.4 is amended by revising the introductory paragraph and paragraphs (a)(1)(ii) and (a)(3), by revising paragraph (a)(4) and redesignating paragraph (a)(4), as paragraph (a)(6), by adding a new paragraph (a)(4), by revising paragraph (a)(5)(iii) and by adding a new paragraph (a)(5)(iv), by revising paragraph (b)(1)(iii), by adding a new paragraph (b)(11), and by revising paragraphs (c), (d), (d)(1), (d)(3), and (g) to read as follows:

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery or options on physicals when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) * * *

(1) * * *

(ii) With respect to options on futures contracts, may be exercised only by the establishment, by book entry, in the clearing organization of positions in the underlying futures contract.

* * * * *

(3) If designation for the trading of options on futures contracts is sought, is designated as a contract market for the underlying contract of sale for future delivery which is the subject of the option for which designation is sought, and submits, if so requested by the Commission, the information called for by § 1.50 of this chapter (relating to continued compliance with the conditions and requirements for designation as a contract market) for the specified futures contract underlying the option for which the designation is sought, and the applicant complies with the conditions and requirements for designation as a contract market for such contract for future delivery as set forth in Sections 5 and 5a of the Act and as set forth in these regulations.

(4) In the case of a contract market which is requesting designation for the trading of options on physicals for which it is designated as a contract market for contracts of sale for future delivery or for options on futures contracts, submits, if so requested by the Commission, the information called for by § 1.50 of this chapter (relating to continued compliance with the conditions and requirements for designition as a contract market) for that specified futures contract and/or options on that futures contract, and the applicant complies with the conditions and requirements for designation as a contract market for such contract for future delivery as set forth in Sections 5 and 5a of the Act and as set forth in these regulations.

(5) * * *

(iii) If designation for the trading of options on futures contracts is sought the volume of trading in all contract months for future delivery of the commodity for which the option designation is sought has averaged at least 1,000 contracts per week on such board of trade for the 12 months preceding the date of application for the designation, or, alternatively, that there is sufficient liquidity in the cash and futures markets in the commodity underlying the option for which designation is being sought to prevent disruption of those markets by the trading of options on a futures contract; and

(iv) If designation for the trading of options on physicals is sought and thereafter for the purpose of demonstrating continued compliance with the Act and these regulations:

(A) The cash market for the underlying physical exhibits sufficient liquidity such that the grantor and purchaser of the option have the opportunity to purchase or sell the underlying physical at its economic value in normal cash marketing channels;

(B) There exists an accurate and widely-disseminated price series for the underlying physical which is deliverable on the option contract;

(C) Trading of such options will not be disruptive of trading in the cash market for the underlying physical or of any futures contract; and

(D) The individual terms and conditions of the option contract conform to practices in the underlying cash market or are otherwise justified, including a demonstration that the terms and conditions of the option contract provide for a deliverable supply which is not conducive to price manipulation or distortion, consistent with a description of the cash market furnished by the board of trade.

(6) If designation for the trading of options on a futures contract is sought, is not designated as a contract market for any other option on a futures contract, and if designation for the trading of options on a physical is sought, is not designated as a contract market for any other option on a physical.

(b) * * *

(1) * * *

(iii) The point, in terms of the price of the underlying futures contract or underlying physical, at which a new strike price will be introduced in any option which is already trading;

* * * * *

(11) Establish appropriate criteria which are reasonably designed to secure performance, upon exercise, of the option contracts.

(c) Such board of trade establishes procedures and conducts sales practice audits of member futures commission merchants which engage in the offer or sale of option contracts regulated under this Part. These sales practice audits must be of sufficient scope to enforce the contract market's rules, including imvestigation for the improper handling of discretionary accounts, inadequate internal supervision, fraudulent or high-pressure sales communications, compliance with disclosure requirements, improper handling and disposition of option customer complaints, and, where applicable, the futures commission merchant's officer or sale of deep-out-of-the-money options.

(d) A board of trade must submit an analysis and justification of the individual terms and conditions of the option contract. In determining whether to approve option contract terms and conditions, the Commission may consider the analysis and justification submitted for such terms and conditions, including, without limitation:

(1) The expiration date of the option if that date is less than ten business days before the earlier of the last trading day or the first notice day of any futures contract on the same or a related commodity;

* * * * *

(3) The nature of the clearing mechanism to be utilized for the commodity option, and the differences, if any, among the clearing mechanisms for options on futures contracts, options on physicals, and futures contracts;

* * * * *

(g) Such board of trade provides a comprehensive list of occupation or business categories of commercial users of the commodity underlying the option contract for which the board of trade is seeking designation as a contract market.

43. Section 33.5 is amended by revising paragraph (c) to read as follows:

§ 33.5 Application for designation as a contract market for the trading of commodity options.

* * * * *

(c) The effective period for designation as a contract market for a particular commodity option under this Part shall be for a period not to exceed three years from the effective date of the designation, or such shorter period as the Commission may specify at the time the designation is granted, and in any event shall be of no further force or effect should the Commission, by rule or regulation, repeal the provisions of this Part under which such designation is granted. Except as may be specifically authorized by the Commission, no board of trade which has been designated as a contract market for the trading of commodity options may authorize or allow the trading of any commodity option which will expire after the termination of the effective period of such designation, and, with respect to an option on a futures contract, where the delivery month of the futures contract underlying such option is later than the termination of the effective period of such designation or where the month for the underlying futures contract has not been listed.

44. Section 33.6 is amended by revising paragraph (c) to read as follows:

§ 33.6 Suspension or revocation of designation as a contract market for the trading of commodity options.

* * * * *

(c) The option market is not used on more than an occasional basis for other than speculative purposes by producers, processors, merchants or commercial users engaged in handling or utilizing the commodity (including the products, by-products or source commodity thereof) underlying an option, in interstate commerce; or

* * * * *

45. Section 33.7 is amended by revising portions of paragraph (b) (Options Disclosure Statement) and by revising paragraphs (c) and (d) to read as follows:

§ 33.7 Disclosure.

* * * * *

(b) The disclosure statement must read as follows:

OPTIONS DISCLOSURE STATEMENT

BECAUSE OF THE VOLATILE NATURE OF THE COMMODITIES MARKETS, THE PURCHASE AND GRANTING OF COMMODITY OPTIONS INVOLVE A HIGH DEGREE OF RISK. COMMODITY OPTION TRANSACTIONS ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. SUCH TRANSACTIONS SHOULD BE ENTERED INTO ONLY BY PERSONS WHO HAVE READ AND UNDERSTOOD THIS DISCLOSURE STATEMENT AND WHO UNDERSTAND THE NATURE AND EXTENT OF THEIR RIGHTS AND OBLIGATIONS AND OF THE RISKS INVOLVED IN THE OPTION TRANSACTIONS COVERED BY THIS DISCLOSURE STATEMENT.

BOTH THE PURCHASER AND THE GRANTOR SHOULD KNOW WHETHER THE PARTICULAR OPTION IN WHICH THEY CONTEMPLATE TRADING IS AN OPTION WHICH, IF EXERCISED, RESULTS IN THE ESTABLISHMENT OF A FUTURES CONTRACT (AN "OPTION ON A FUTURES CONTRACT") OR RESULTS IN THE MAKING OR TAKING OF DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION (AN "OPTION ON A PHYSICAL COMMODITY"). BOTH THE PURCHASER AND THE GRANTOR OF AN OPTION ON A PHYSICAL COMMODITY SHOULD BE AWARE THAT, IN CERTAIN CASES, THE DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION MAY NOT BE REQUIRED AND THAT, IF THE OPTION IS EXERCISED, THE OBLIGATIONS OF THE PURCHASER AND GRANTOR WILL BE SETTLED IN CASH.

A PERSON SHOULD NOT PURCHASE ANY COMMODITY OPTION UNLESS HE IS ABLE TO SUSTAIN A TOTAL LOSS OF THE PREMIUM AND TRANSACTION COSTS OF PURCHASING THE OPTION. A PERSON SHOULD NOT GRANT ANY COMMODITY OPTION UNLESS HE IS ABLE TO MEET ADDITIONAL CALLS FOR MARGIN WHEN THE MARKET MOVES AGAINST HIS POSITION AND, IN SUCH CIRCUMSTANCES, TO SUSTAIN A VERY LARGE FINANCIAL LOSS.

A PERSON WHO PURCHASES AN OPTION SHOULD BE AWARE THAT IN ORDER TO REALIZE ANY VALUE FROM THE OPTION, IT WILL BE NECESSARY EITHER TO OFFSET THE OPTION POSITION OR TO EXERCISE THE OPTION. IF AN OPTION PURCHASER DOES NOT UNDERSTAND HOW TO OFFSET OR EXERCISE AN OPTION, THE PURCHASER SHOULD REQUEST AN EXPLANATION FROM THE FUTURES COMMISSION MERCHANT. CUSTOMERS SHOULD BE AWARE THAT IN A NUMBER OF CIRCUMSTANCES, SOME OF WHICH WILL BE DESCRIBED IN THIS DISCLOSURE STATEMENT, IT MAY BE DIFFICULT OR IMPOSSIBLE TO OFFSET AN EXISTING OPTION POSITION ON AN EXCHANGE.

THE COMMODITY FUTURES TRADING COMMISSION REQUIRES THAT ALL CUSTOMERS RECEIVE AND ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT BUT DOES NOT INTEND THIS STATEMENT AS A RECOMMENDATION OR ENDORSEMENT OF EXCHANGE-TRADED COMMODITY OPTIONS.

Contents of Disclosure Statement

1. Some of the risks of option trading
2. Description of commodity options
3. The mechanics of option trading
4. Margin requirements
5. Profit potential of an option position
6. Deep-out-of-the-money options
7. Glossary of terms

(1) *SOME OF THE RISKS OF OPTION TRADING.*

THE GRANTOR OF AN OPTION SHOULD BE AWARE THAT, IN MOST CASES, A COMMODITY OPTION MAY BE EXERCISED AT ANY TIME FROM THE TIME IT IS GRANTED UNTIL IT EXPIRES. THE PURCHASER OF AN OPTION SHOULD BE AWARE THAT SOME OPTION CONTRACTS MAY PROVIDE ONLY A LIMITED PERIOD OF TIME FOR EXERCISE OF THE OPTION.

THE PURCHASER OF A PUT OR A CALL IS SUBJECT TO THE RISK OF LOSING THE ENTIRE PURCHASE PRICE OF THE OPTION—THAT IS THE PREMIUM PAID FOR THE OPTION PLUS ALL TRANSACTION COSTS.

Specific market movements of the underlying future or underlying physical commodity cannot be predicted accurately.

The grantor of a call option who does not have a long position in the underlying futures contract or underlying physical commodity is subject to risk or loss should the price of the underlying futures contract or underlying physical commodity increase by an amount greater than the premium received for granting the call option.

The grantor of a call option who has a long position in the underlying futures contract or underlying physical commodity is subject to the full risk of a decline in price of the underlying position. In exchange for the premium received for granting a call option, the option grantor gives up all of the potential gain resulting from an increase in the price of the underlying futures contract or underlying physical commodity above the option strike price if the option is exercised against the grantor.

The grantor of a put option who does not have a short position in the underlying futures contract or underlying physical commodity (*e.g.*, commitment to sell the physical) is subject to risk of loss should the price of the underlying futures contract or underlying physical commodity decrease by an amount in excess of the premium received for granting the put option.

The grantor of a put option on a futures contract who has a short position in the underlying futures contract is subject to the full risk of a rise in the price in the underlying position. In exchange for the premium received for granting a put option on a futures contract, the option grantor gives up all of the potential gain resulting from a decrease in the price of the underlying futures contract below the option strike price if the option is exercised against the grantor. The grantor of a put option on a physical commodity who

has a short position (*e.g.*, commitment to sell the physical) is subject to the full risk of a rise in the price of the physical commodity which must be obtained to fulfill the commitment. In exchange for the premium, the grantor of a put option on a physical commodity gives up all of the potential gain which would have resulted from a decrease in the price of the commodity below the option strike price if the option is exercised against the grantor.

(2) *Description of Commodity Options.* Prior to entering into any transaction involving a commodity option, an individual should thoroughly understand the nature and type of option and the underlying futures contract or underlying physical commodity involved. The futures commission merchant is required to provide, and the individual contemplating an option transaction should obtain, a description of the following:

(i) The futures contract or the physical commodity which is the subject of the option;

(ii) The quantity of the underlying futures contract or underlying physical commodity which may be purchased or sold upon exercise of the option or, if applicable, whether exercise of the option will be settled in cash;

* * * * *

(v) A description of all costs in addition to the purchase price which may be incurred if the commodity option is exercised, including the amount of commissions (whether termed sales commissions or otherwise), storage, interest, and all similar fees and charges which may be incurred;

(vi) An explanation and understanding of an option grantor's initial margin requirement and obligation to provide additional margin in connection with such an option position, or a position in a futures contract, if applicable;

* * * * *

(viii) If applicable, a description of the effect upon the value of the option position that could result from limit moves in the underlying futures contract.

(3) *The Mechanics of Option Trading.* Before entering into any exchange-traded option transaction, an individual should obtain a description of how commodity options are traded.

Option customers should clearly understand that there is no guarantee that option positions may be offset by either a closing purchase or closing sale transaction on an exchange. In this circumstance, option grantors could be subject to the full risk of their positions until the option positions expire, and the purchaser of a profitable option might have to exercise the option to realize a profit.

For an option on a futures contract, an individual should clearly understand the relationship between exchange rules governing option transactions and exchange rules governing the underlying futures contract. For example, an individual should understand what action, if any, the exchange will take in the option market if trading in the underlying futures market is restricted or the futures prices have made a "limit move."

* * * * *

(5) *Profit Potential of An Option Position.* An option customer should carefully calculate the price which the underlying futures contract or underlying physical commodity would have to reach for the option position to become profitable. This price would include the amount by which the underlying futures contract or underlying physical commodity would have to rise above or fall below the strike price to cover the sum of the premium and all other costs incurred in entering into and exercising or closing (offsetting) the commodity option position.

(6) *Deep-out-of-the-Money Options.* A person contemplating purchasing a deep-out-of-the-money option (that is, an option with a strike price significantly above, in the case of a call, or significantly below, in the case of a put, the current price of the underlying futures contract or underlying physical commodity) should be aware that the chance of such an option becoming profitable is ordinarily remote.

On the other hand, a potential grantor of a deep-out-of-the-money option should be aware that such options normally provide small premiums while exposing the grantor to all of the potential losses described in section (1) of this disclosure statement.

(7) *Glossary of Terms.* (i) *Contract market*—Any board of trade (exchange) located in the United States which has been designated by the Commodity Futures Trading Commission to list a futures contract or commodity option for trading.

(ii) *Exchange-traded option; put option; call option*—The options discussed in this disclosure statement are limited to those which may be traded on a contract market. These options (subject to certain exceptions) give an option purchaser the right to buy in the case of a call option, or to sell in the case of a put option, a futures contract or the physical commodity underlying the option at the stated strike price prior to the expiration date of the option. Each exchange-traded option is distinguished by the underlying futures contract or underlying physical commodity, strike price, expiration date, and whether the option is a put or a call.

(iii) *Underlying futures contract*—The futures contract which may be purchased or sold upon the exercise of an option on a futures contract.

(iv) *Underlying physical commodity*—The commodity of a specific grade (quality) and quantity which may be purchased or sold upon the exercise of an option on a physical commodity.

(v) *Class of options*—A put or a call covering the same underlying futures contract or underlying physical commodity.

(vi) *Series of options*—Options of the same class having the same strike price and expiration date.

(vii) *Exercise price—See* strike price.

(viii) *Expiration date*—The last day when an option may be exercised.

(ix) *Premium*—The amount agreed upon between the purchaser and seller for the purchase or sale of a commodity option.

(x) *Strike price*—The price at which a person may purchase or sell the underlying futures contract or underlying physical commodity upon exercise of a commodity option. This term has the same meaning as the term "exercise price."

(xi) *Short option position—See* opening sale transaction.

(xii) *Long option position—See* opening purchase transaction.

(xiii) *Types of options transactions*—

(A) *Opening purchase transaction*—A transaction in which an individual purchases an option and thereby obtains a long option position.

(B) *Opening sale transaction*—A transaction in which an individual grants an option and thereby obtains a short option position.

(C) *Closing purchase transaction*—A transaction in which an individual with a short option position liquidates the position. This is accomplished by a closing purchase transaction for an option of the same series as the option previously granted. Such a transaction may be referred to as an offset transaction.

(D) *Closing sale transaction*—A transaction in which an individual with a long option position liquidates the position. This is accomplished by a closing sale transaction for an option of the same series as the option previously purchased. Such a transaction may be referred to as an offset transaction.

(xiv) *Purchase price*—The total actual cost paid or to be paid, directly or indirectly, by a person to acquire a commodity option. This price includes all commissions and other fees, in addition to the option premium.

(xv) *Grantor, writer, seller*—An individual who sells an option. Such a person is said to have a short position.

(xvi) *Purchaser*—An individual who buys an option. Such a person is said to have a long position.

(c) Prior to the entry of the first commodity option transaction for the account of an option customer, a futures commission merchant or the person soliciting or accepting the order therefor must provide an option customer with all of the information required under the disclosure statement: *Provided,* The limitations, if any, on the transfer of an option customer's account to a futures commission merchant other than the one through whom the commodity option transactions are to be executed must be provided in writing; *Provided, further,* That the futures commission merchant or the person soliciting or accepting the order therefor must provide current information to an option customer if the information provided previously has become inaccurate.

(d) Prior to the entry into a commodity option transaction on or subject to the rules of a contract market, each option customer or prospective option customer shall, to the extent the following amounts are known or can reasonably be approximated, be informed by the person soliciting or accepting the order therefor of the amount of the premium and any mark-ups thereon, if applicable, commissions, costs, fees and other charges to be incurred in connection with the commodity option transaction,

as well as the strike price and all costs to be incurred by the option customer if the commodity option is exercised.

* * * * *

PART 145—COMMISSION RECORDS AND INFORMATION

46. Section 145.5 is amended by revising paragraph (d)(1)(vi) to read as follows:

§ 145.5 Nonpublic matters.

* * * * *

(d) * * *

(1) * * *

(vi) Reports required to be filed pursuant to Parts 15–21 of this chapter; and

* * * * *

PART 147—OPEN COMMISSION MEETINGS

47. Section 147.3 is amended by revising paragraph (b)(4)(i)(F) to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(F) Reports required to be filed pursuant to Parts 15–21 of this chapter; and

* * * * *

PART 155—TRADING STANDARDS

48. Section 155.2 is amended by revising paragraphs (a), (b), and (i) to read as follows:

§ 155.2 Trading standards for floor brokers.

Each contract market shall adopt and submit to the Commission for approval pursuant to Section 5a(12) of the Act and § 1.41 of this chapter, a set of rules which shall, at a minimum, with respect to each member of the contract market acting as a floor broker:

(a) Prohibit such member from purchasing any commodity for future delivery, purchasing any call option, or selling any put option, for his own account or for any account in which he has an interest, while holding an order of another person for the (1) purchase of any future, (2) purchase of any call option, or (3) sale of any put option, in the same commodity which is executable at the market price or at the price at which such purchase or sale can be made for the member's own account or any account in which he has an interest.

(b) Prohibit such member from selling any commodity for future delivery, selling any call option, or purchasing any put option, for his own account or for any account in which he has an interest, while holding an order of another person for the (1) sale of any future, (2) sale of any call option, or (3) purchase of any put option, in the same commodity which is executable at the market price or at the price at which such sale or purchase can be made for the member's own account or any account in which he has an interest.

* * * * *

(i) Require that every execution of a transaction on the floor by such member be confirmed promptly with the opposite floor broker or floor trader; such confirmation shall identify price or premium, quantity, future or commodity option and respective clearing members. In the event a contract market cannot require prompt identification of respective clearing members without seriously disrupting the functions of its marketplace, the contract market may petition the Commission for exemption from this requirement. Such petition shall include:

* * * * *

49. Section 155.3 is amended by revising paragraph (a)(1) to read as follows:

§ 155.3 Trading standards for futures commission merchants.

(a) * * *

(1) Insure, to the extent possible, that each order received from a customer or from an option customer which is executable at or near the market price is transmitted to the floor of the appropriate contract market before any order in any future or in any commodity option in the same commodity for any proprietary account, any other account in whch an affiliated person has an interest, or any account for which an affiliated person may originate orders without the prior specific consent of the account owner, if the affiliated person has gained knowledge of the customer's or option customer's order prior to the transmission to the floor of the appropriate contract market of the order for a proprietary account, an account in which the affiliated person has an interest, or an account in which the affiliated person may originate orders without the prior specific consent of the account owner; and

* * * * *

PART 170—REGISTERED FUTURES ASSOCIATIONS

50. The authority citation for Part 170 is revised to read as follows:

Authority: 7 U.S.C. 6c, 12a, and 21.

51. Section 170.5 is revised to read as follows:

§ 170.5 Prevention of fraudulent and manipulative practices (Section 17(b)(7) of the Act).

A futures association must establish and maintain a program for the protection of customers and option customers, including the adoption of rules to protect customers and option customers and customer funds and to promote fair dealing with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of an adherence to the ethical standards, and to monitor and enforce compliance with the customer and option customer protection program and rules.

52. Section 170.8 is revised to read as follows:

§ 170.8 Settlement of customer disputes (Section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair and equitable procedure, through arbitration or otherwise, for the voluntary settlement of a customer's or option customer's claim or grievance of less than $15,000 brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with Section 17(b)(10) of the Act and be consistent with Part 180 of the Commission's regulations governing contract market arbitration and dispute settlement procedures.

PART 180—ARBITRATION OR OTHER DISPUTE SETTLEMENT PROCEDURES

53. Section 180.1 is amended by revising paragraph (a) to read as follows:

§ 180.1 Definitions.

(a) The term "claim or grievance" as used in this Part shall mean any dispute which arises out of any transaction on or subject to the rules of a contract market, executed by or effected through a member of that contract market or employee thereof which dispute does not require for adjudication the presence of essential witnesses or third parties over whom the contract market does not have jurisdiction and who are not otherwise available. The term claim or grievance does not include disputes

arising from cash market transactions which are not a part of or directly connected with any transaction for the purchase or sale of any commodity for future delivery or commodity option.

* * * * *

Issued in Washington, D.C. on December 13, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-34538 Filed 12-21-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35

[T.D. 7858]

Withholding From Pensions, Annuities, and Certain Other Deferred Income; Temporary Regulations

Correction

In FR Doc. 82-32771 beginning on page 54065 in the issue for Wednesday, December 1, 1982, make the following correction:

On page 54066, middle column, in paragraph **e. Reporting and Recordkeeping** to § 35.3405-1, in the first line *"l-10."* should have read *"e-10."*.

BILLING CODE: 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans

AGENCY: Pension Benefits Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits in Non-Multiemployer Plans, Part 2619, by adding a new table, Table I-83, to Appendix D and correcting typographical errors in Subpart D. Table I-83 is to be used for plans covered under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, that terminate in 1983. The table is needed to determine an expected retirement age for certain plan participants in terminating pension plans that provide for an early retirement benefit. The expected retirement age is needed to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published a final and interim rule on Valuation of Plan Benefits in Non-Multiemployer Plans, 29 CFR Part 2610 (46 FR 9504). Under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.*, as amended, covered pension plans that terminate must determine the total value of benefits under the plan in order to determine if plan assets are sufficient to provide for those benefits. If plan assets are not sufficient to provide for all benefits guaranteed by PBGC, the employer is liable for the insufficiency up to a limit of 30% of the employer's "net worth" within the meaning of 29 U.S.C. 1362. The interim portion of the benefit valuation regulation, Subpart D and Appendices D and E, provided methods for determining an expected retirement age to be used with the rules in Subparts B and C of Part 2610 to determine the value of an early retirement benefit. Part 2610 was redesignated Part 2619 in a notice published June 24, 1981 (46 FR 32574). Subpart D and Appendices D and E of Part 2619, as amended December 31, 1981 (46 FR 63268), were promulgated as final rules on April 13, 1982 (47 FR 15780).

Appendix D contains two sets of tables to be used to determine an expected date of retirement for each participant entitled to early retirement. The first set of tables, Selection of Retirement Rate Category (I-79, I-80, I-81, and I-82), is used to determine whether a participant has a low, medium, or high probability of retiring early. The second set of tables, Expected Retirement Ages for Individuals in the Low/Medium/High Categories (II-A, II-B, and II-C), is used to determine the expected retirement age.

The first set of tables determines the probability of early retirement based on the year a participant would reach normal retirement age and the participant's monthly benefit at normal retirement age. The second set of tables establishes, by probability category, the expected retirement age based on the earliest age a participant could retire and on the normal retirement age under the plan. This age is used to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan and the amount of employer liability, if any, owed to PBGC.

The first set of tables in Appendix D as originally published (46 FR 9504)—the Selection of Retirement Rate Category—consists of three tables. The tables establish a retirement rate category for each of the calendar years 1979 through 1981, and each table applies only to plans terminating in that particular year. A new table, I-82, was added on December 31, 1981 (46 FR 63268) in order to update the correlation between the amount of a participant's benefit and the probability that he or she will elect early retirement. Normally, a table remains in effect only for a calendar year. This rule amends Appendix D of Part 2619 to add Table I-83 for use in valuing benefits in plans that terminate during calendar year 1983.

This rule also amends §§ 2619.63(c) and 2619.64(c) to correct two typographical errors. The cross reference to Appendix C should be to Appendix D in each instance.

The PBGC has determined that notice of and public comment on the addition of Table I-83 to Appendix D, Part 2619, are impracticable and contrary to the public interest. This determination is based on the need to issue the table promptly so the appendix will reflect, as accurately as possible, the relationship between a participant's benefit and his or her probability of retiring early. The PBGC has found that the public interest is best served by issuing this table without an opportunity for notice and comment so that plans can calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination and can, therefore, lessen or avoid interest charges under 29 CFR 2622.7 for late payment of employer liability. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the table set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of

February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI of Title 29, Code of Federal Regulations is hereby amended by adding a new table and making corrections as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Sections 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029, (1974), as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299, (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

§ 2619.63 [Amended]

2. In § 2619.63, paragraph (c)(1) is amended by substituting "Appendix D" for "Appendix C".

§ 2619.64 [Amended]

2. In § 2619.64, paragraph (c) is amended by substituting "Appendix D" for "Appendix C" in the first sentence.

4. Appendix D to Part 2619 is amended by the addition of Table I–83, as follows:

Appendix D.—Tables Used to Determine Expected Retirement Age

* * * * *

TABLE I–83.—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with a valuation date after Dec. 31, 1982 and before Jan. 1, 1984]

	Participant's retirement rate category is—			
	Low (table II–A)	Medium (table II–B)	Medium (table II–B)	High (table II–C)

Participant reaches NRA in year	If monthly benefit at NRA is—			
	Less than	From	To	Greater than
1984	$259	$259	$1,091	$1,091
1985	271	271	1,142	1,142
1986	283	283	1,195	1,195
1987	296	296	1,250	1,250
1988	309	309	1,305	1,305
1989	323	323	1,362	1,362
1990	337	337	1,422	1,422
1991	352	352	1,484	1,484
1992	367	367	1,517	1,517
1993 or later	384	384	1,517	1,517

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82–34580 Filed 12–21–82; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW–10–FRL 2272–2]

Hazardous Waste Management Program; Washington Application for Interim Authorization, Phase I and Phase II Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review the Washington application for Phase I and Phase II Components A and B Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Washington interim authorization application must be received by February 1, 1983.

EPA will conduct a Public Hearing for the Washington Interim Authorization application at 10:00 AM on January 25, 1983. The State of Washington will participate in the Public Hearing held by EPA on this subject.

ADDRESSES: The Public Hearing will be held at: Federal Building, South Auditorium (Fourth Floor), 915 Second Avenue, Seattle, Washington. Copies of the Interim Authorization application are available at the following addresses for inspection and copying by the public during normal business hours:

Washington Department of Ecology, Solid Waste Division, Rowesix Building, #4, Second Floor, 4224 Sixth Avenue NE, Lacey, Washington, (206) 459–6301

Environmental Protection Agency, Region 10, Library, 12th Floor, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–1259

EPA Headquarters Library, Room 2404, 401 M Street SW., Washington, D.C. 20460.

Written comments and requests to speak at the hearing should be sent to: Environmental Protection Agency, Region 10, Betty Wiese, RCRA Program Development Section M/S 530, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–2857.

FOR FURTHER INFORMATION CONTACT: Betty Wiese (206) 442–2857.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective six (6) months from the date of promulgation, were provisions for a transitional stage in which states would be granted interim authorization in phases corresponding to the stages in which the underlying Federal program will take effect. EPA's Phase I regulations (promulgated May 19, 1980) establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

In the January 26, 1981 **Federal Register** (46 FR 7765), the Environmental Protection Agency announced availability of portions of the second phase of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802) contains standards for permitting containers, tanks and certain kinds of surface impoundments and waste piles. Component B published in the **Federal Register** January 23, 1981 (46 FR 7666) contains standards for permitting hazardous waste incinerators.

The State of Washington has submitted an application to EPA for interim authorization for Phase I and Phase II, Components A and B. A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, 45 FR 33479.

Prior to being authorized for a component of Phase II, a state may require facilities that treat, store or dispose of hazardous waste to obtain a

state permit. There are no provisions within RCRA or the Federal hazardous waste regulations for designating these pre-authorization state permits as RCRA permits. Only EPA or an authorized state can issue a RCRA permit.

EPA and the State of Washington now require permits for certain hazardous waste facilities. The agencies are cooperating in the current permit application review activity and intend to jointly issue Federal/State permits for these facilities. EPA is proposing to consider such jointly issued State permits as RCRA permits upon authorization of the applicable component of Phase II.

As noted in the May 19, 1980 **Federal Register**, copies of State submittals for interim authorization are to be made available for public inspection and comment. The purpose of this notice is to announce the availability of Washington's application for public inspection, to invite public comments and to give notice of a public hearing to be held on Washington's application.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—land, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties and confidential business information.

(Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Solid Waste Disposal Act Amendments of 1980, 42 U.S.C. 6901 et seq.)

Dated: December 14, 1982.

John R. Spencer,

Regional Administrator, Region 10.

[FR Doc. 82-34701 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 716

[OPTS-84003D; TSH-FRL 2272-4]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects errors in an amendment to 40 CFR Part 716 adding 11 chemicals to the final regulations, under section 8(d) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2607(d)), which require the submission of unpublished health and safety studies on specifically listed chemicals by chemical manufacturers, processors, and others in possession of such studies. The 11 chemical substances added were recommended for testing by the Interagency Testing Committee (ITC) in their Eleventh Report to EPA and designated for priority consideration by EPA within one year. The amendment was published in the **Federal Register** of December 3, 1982 (47 FR 54624).

EFFECTIVE DATE: This correction document was effective on December 3, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In FR Doc. 82-32843, published in the **Federal Register** of December 3, 1982, appearing at page 54624, the following corrections are made in the first table in the center column under the heading Alkyltin Compounds:

1. The CAS No. for monobutyltin tris(isooctyl mercaptoacetate) is corrected to read "25852-70-4".

2. The following chemical is added to the bottom of the list of Alkyltin Compounds:

Monomethyltin tris(isooctyl mercaptoacetate), 54849-38-6

This notice corrects the list of chemicals that appeared in the preamble to the amendment. The list should have contained the 11 chemicals recommended for testing by the ITC and designated for priority consideration by EPA within one year. The list of chemicals codified at 40 CFR 716.17(a)(2) is correct.

Dated: December 15, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-34659 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-3, 1-16 and 1-30

[FPR Amdt. 227]

Federal Procurement Regulations; Revisions to Audit Thresholds and Progress Payment Provisions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment revises the thresholds for requesting contract audit services as a pricing aid, raises the uniform standard percentages for progress payments based on total costs, and revises the provisions covering progress payments based on costs. It is based upon changed agency needs arising from present economic conditions and revisions recently made to the Defense Acquisition Regulation. The intended effect is to reduce mandatory audit requirements for certain cost-reimbursement type contract proposals, provide increased progress payments for both small and large businesses, and achieve substantial Government-wide uniformity regarding progress payment clauses and provisions.

EFFECTIVE DATE: January 31, 1983.

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

SUPPLEMENTARY INFORMATION: Significant changes introduced in this amendment are as follows:

1. The audit requirement threshold for contract proposals for cost-reimbursement, cost-sharing, cost-plus-award-fee, and cost-plus-fixed-fee contracts is increased from $250,000 to $500,000.

2. Customary progress payment rates based upon total costs, which are presently set at 80 percent for other than small business concerns and 85 percent for small business concerns, are increased to 90 percent and 95 percent, respectively.

3. Miscellaneous revisions are made to the FPR coverage on advance payments because of revisions to Treasury Circular No. 1075 and the cancellation of Federal Management Circular 73-7.

4. Subpart 1-30.5, Progress Payments, is revised to make the coverage substantially uniform with parallel coverage in the Defense Acquisition Regulation except in areas considered peculiar to Defense Department contracting.

5. The information collection requirement contained in this regulation (section 1-16.808(a)) has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and has been assigned OMB control number 3090-0105.

List of Subjects

41 CFR Part 1-3

Government procurement, Types of contracts, Procurement by negotiation, Small purchases and cost accounting standards.

41 CFR Part 1–16

Government procurement and procurement forms.

41 CFR Part 1–30

Government procurement, Claims and contract finance.

PART 1–3—PROCUREMENT BY NEGOTIATION

Subpart 1–3.8—Price Negotiation Policies and Techniques

Section 1–3.809 is amended to revise paragraph (b)(1) to read as follows:

§ 1–3.809 Contract audit as a pricing aid.

* * * * *

(b) *Auditors reports on contract proposals.* (1) The contracting officer or his authorized representative shall request an audit review by the contract audit activity in accordance with this paragraph (b). Audit reviews shall be requested prior to the negotiation of any contract or modification resulting from proposals in excess of $100,000 which are for firm fixed-price, fixed-price with economic price adjustment, fixed-price redeterminable (prospective), and time and materials or labor-hour type contracts, and for interim and final price redetermination and settlement of incentive type contracts; $250,000 for fixed-price incentive, cost-plus-incentive-fee or fixed-price redeterminable (retroactive) type contracts; or $500,000 for cost-reimbursement, cost-sharing, cost-plus-award-fee or cost-plus-a-fixed-fee type contracts, when the price is based on cost or pricing data (§1–3.807–3) submitted by the contractor. These include initial prices, estimated cost of cost-reimbursement type contracts, economic price adjustments, target prices, and modifications of formally advertised contracts. In arriving at the aggregate amount involved in a contract or modification, all supplies and services shall be included (including construction) which properly would be grouped together in a single transaction. Requirements shall not be split into several contracts or modifications which individually would be less than (but in the aggregate would be more than) the amounts set forth in this paragraph (b)(1) for the type of contract anticipated.

(i) The requirement to audit proposals as set forth in paragraph (b)(1) of this section may be waived by the contracting officer whenever it is clear that information already available is adequate for determining the reasonableness of the price of the proposed procurement. Examples of such information include recent preaward audits of proposals submitted by the offeror, preaward surveys, or other recent favorable audit experience. In such cases, the contract files shall be documented to reflect the reasons for any such waivers. However, independent Government estimates of cost or price shall not be used as the sole justification for waiver (see § 1–3.811(a)(4)).

(ii) Audits should be requested for proposals which are less than the thresholds set forth in paragraph (b)(1) of this section where a valid need exists, such as:

(A) Inadequate knowledge concerning the contractor's accounting policies, cost systems, or substantially changed methods or levels of operation;

(B) Previous unfavorable experience indicating doubtful reliability of the contractor's estimating, accounting, or purchasing methods; or

(C) Procurement of a new product for which cost experience is lacking.

* * * * *

PART 1–16—PROCUREMENT FORMS

The table of contents for Part 1–16 is amended to add 2 new entries as follows:

1–16.808 Contractor's request for progress payment.
1–16.901–1443 Standard Form 1443: Contractor's Request for Progress Payment.

Subpart 1–16.8—Miscellaneous Forms

Section 1–16.808 is added to read as follows:

§ 1–16.808 Contractor's request for progress payment.

Standard Form 1443, Contractor's Request for Progress Payment, is designed for submission of progress payment requests under the contract clauses set forth in § 1–30.510–1. This form is specifically referred to in § 1–30.529 and in the guidance pertaining to the administration of progress payments throughout Subpart 1–30.5. Instructions for completion are printed on the form.

Subpart 1–16.9—Illustrations of Forms

Section 1–16.901–1443 is added to read as follows:

§ 1-16.901-1443 Contractor's request for progress payment.

(a) Page 1 of Standard Form 1443.

CONTRACTOR'S REQUEST FOR PROGRESS PAYMENT	

IMPORTANT: This form is to be completed in accordance with Instructions on reverse.

SECTION I – IDENTIFICATION INFORMATION

1. TO: NAME AND ADDRESS OF CONTRACTING OFFICE (Include ZIP Code)	2. FROM: NAME AND ADDRESS OF CONTRACTOR (Include ZIP Code)		
PAYING OFFICE		3. SMALL BUSINESS ☐ YES ☐ NO	4. CONTRACT NO.
			5. CONTRACT PRICE $

6. RATES		7. DATE OF INITIAL AWARD		8A. PROGRESS PAYMENT REQUEST NO.	8B. DATE OF THIS REQUEST
A. PROG. PYMTS.	B. LIQUIDATION	A. YEAR	B. MONTH		
%	%				

SECTION II – STATEMENT OF COSTS UNDER THIS CONTRACT THROUGH _____ (Date)

9. PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE		$
10. INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE		
11. TOTAL COSTS ELIGIBLE FOR PROGRESS PAYMENTS *(Item 9 plus 10)*		
12. a. TOTAL COSTS INCURRED TO DATE	$	
b. ESTIMATED ADDITIONAL COST TO COMPLETE		
13. ITEM 11 MULTIPLIED BY ITEM 6a		
14. a. PROGRESS PAYMENTS PAID TO SUBCONTRACTORS		
b. LIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS		
c. UNLIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS *(Item 14a less 14b)*		
d. SUBCONTRACT PROGRESS BILLINGS APPROVED FOR CURRENT PAYMENT		
e. ELIGIBLE SUBCONTRACTOR PROGRESS PAYMENTS *(Item 14c plus 14d)*		
15. TOTAL DOLLAR AMOUNT *(Item 13 plus 14e)*		
16. ITEM 5 MULTIPLIED BY ITEM 6b		
17. LESSER OF ITEM 15 OR ITEM 16		
18. TOTAL AMOUNT OF PREVIOUS PROGRESS PAYMENTS REQUESTED		
19. MAXIMUM BALANCE ELIGIBLE FOR PROGRESS PAYMENTS *(Item 17 less 18)*		

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SECTION III – COMPUTATION OF LIMITS FOR OUTSTANDING PROGRESS PAYMENTS

*SEE SPECIAL INSTRUCTIONS ON BACK FOR USE UNDER THE FEDERAL ACQUISITION REGULATION.

20. COMPUTATION OF PROGRESS PAYMENT CLAUSE *(a(3)(i) or a(4)(i))* LIMITATION *	$	
a. COSTS INCLUDED IN ITEM 11, APPLICABLE TO ITEMS DELIVERED, INVOICED, AND ACCEPTED TO THE DATE IN HEADING OF SECTION II.		
b. COSTS ELIGIBLE FOR PROGRESS PAYMENTS, APPLICABLE TO UNDELIVERED ITEMS AND TO DELIVERED ITEMS NOT INVOICED AND ACCEPTED *(Item 11 less 20a)*		
c. ITEM 20b MULTIPLIED BY ITEM 6a		$
d. ELIGIBLE SUBCONTRACTOR PROGRESS PAYMENTS *(Item 14e)*		
e. LIMITATION a(3)(i) or a(4)(i) *(Item 20c plus 20d)* *		
21. COMPUTATION OF PROGRESS PAYMENT CLAUSE *(a(3)(ii) or a(4)(ii))* LIMITATION *		
a. CONTRACT PRICE OF ITEMS DELIVERED, ACCEPTED AND INVOICED TO DATE IN HEADING OF SECTION II		
b. CONTRACT PRICE OF ITEMS NOT DELIVERED, ACCEPTED AND INVOICED *(Item 5 less 21a)*		
c. ITEM 21b MULTIPLIED BY ITEM 6b		
d. UNLIQUIDATED ADVANCE PAYMENTS PLUS ACCRUED INTEREST		
e. LIMITATION *(a(3)(ii) or a(4)(ii))* *(Item 21c less 21d)* *		
22. MAXIMUM UNLIQUIDATED PROGRESS PAYMENTS *(Lesser of Item 20e or 21e)*		
23. TOTAL AMOUNT APPLIED AND TO BE APPLIED TO REDUCE PROGRESS PAYMENT		
24. UNLIQUIDATED PROGRESS PAYMENTS *(Item 18 less 23)*		
25. MAXIMUM PERMISSIBLE PROGRESS PAYMENTS *(Item 22 less 24)*		
26. AMOUNT OF CURRENT INVOICE FOR PROGRESS PAYMENT *(Lesser of Item 25 or 19)*		
27. AMOUNT APPROVED BY CONTRACTING OFFICER		

CERTIFICATION

I certify that the above statement (with attachments) has been prepared from the books and records of the above-named contractor in accordance with the contract and the instructions hereon, and to the best of my knowledge and belief, that it is correct, that all the costs of contract performance (except as herewith reported in writing) have been paid to the extent shown herein, or where not shown as paid have been paid or will be paid currently, by the contractor, when due, in the ordinary course of business, that the work reflected above has been performed, that the quantities and amounts involved are consistent with the requirements of the contract. That there are no encumbrances (except as reported in writing herewith, or on previous progress payment request No. _____) against the property acquired or produced for and allocated or properly chargeable to the contract which would affect or impair the Government's title, that there has been no materially adverse change in the financial condition of the contractor since the submission of the most recent written information dated _____ by the contractor to the Government in connection with the contract, that to the extent of any contract provision limiting progress payments pending first article approval, such provision has been complied with, and that after the making of the requested progress payment the unliquidated progress payments will not exceed the maximum unliquidated progress payments permitted by the contract.

NAME AND TITLE OF CONTRACTOR REPRESENTATIVE SIGNING THIS FORM	SIGNATURE
NAME AND TITLE OF CONTRACTING OFFICER	SIGNATURE

NSN 1443-101 STANDARD FORM 1443 (10-82)
Prescribed by GSA (FPR 1-16.808)
FAR (48 CFR 53.232)

(b) Page 2 of Standard Form 1443.

INSTRUCTIONS

GENERAL - All entries on this form must be typewritten - all dollar amounts must be shown in whole dollars, rounded up to the next whole dollar. All line item numbers not included in the instructions below are self-explanatory.

SECTION I — IDENTIFICATION INFORMATION. Complete Items 1 through 8c in accordance with the following instructions:

Item 1. TO — Enter the name and address of the cognizant Contract Administration Office. PAYING OFFICE — Enter the designation of the paying office, as indicated in the contract.

Item 2. FROM - CONTRACTOR'S NAME AND ADDRESS/ ZIP CODE — Enter the name and mailing address of the contractor. If applicable, the division of the company performing the contract should be entered immediately following the contractor's name.

Item 3. Enter an "X" in the appropriate block to indicate whether or not the contractor is a small business concern.

Item 5. Enter the total contract price, as amended. If the contract provides for escalation or price redetermination, enter the initial price until changed and not the ceiling price; if the contract is of the incentive type, enter the target or billing price, as amended until final pricing. For letter contracts, enter the maximum expenditure authorized by the contract, as amended.

Item 6A. PROGRESS PAYMENT RATES — Enter the 2-digit progress payment percentage rate shown in paragraph (a)(1) of the progress payment clause.

Item 6B. LIQUIDATION RATE — Enter the progress payment liquidation rate shown in paragraph (b) of the progress payment clause, using three digits - Example: show 80% as 800 - show 72.3% as 723.

Item 7. DATE OF INITIAL AWARD — Enter the last two digits of the calendar year. Use two digits to indicate the month. Example: show Janaury 1982 as 82/01.

Item 8A. PROGRESS PAYMENT REQUEST NO. — Enter the number assigned to this request. All requests under a single contract must be numbered consecutively, beginning with 1. Each subsequent request under the same contract must continue in sequence, using the same series of numbers without omission.

Item 8B. Enter the date of the request.

SECTION II — GENERAL INSTRUCTIONS. DATE. In the space provided in the heading enter the date through which costs have been accumulated from inception for inclusion in this request. This date is applicable to item entries in Sections II and III.

Cost Basis. For all contracts with small business concerns, the base for progress payments is total costs incurred. For contracts with concerns other than Small Business, the progress payment base will be the total recorded paid costs, together with the incurred costs per the Computation of Amounts paragraph of the progress payment clause in FPR 1-30.510-1(a) or FAR 52.232-16, as appropriate. Total costs include all expenses paid and incurred, including applicable manufacturing and production expense, general and administrative expense for performance of contract, which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices, and which are not otherwise excluded by the contract.

Manufacturing and Production Expense, General and Administrative Expense. In connection with the first progress payment request on a contract, attach an explanation of the method, bases and period used in determining the amount of each of these two types of expenses. If the method, bases or periods used for computing these expenses differ in subsequent requests for progress payments under this contract, attach an explanation of such changes to the progress payment request involved.

Incurred Costs Involving Subcontractors for Contracts with Small Business Concerns. If the incurred costs eligible for progress payments under the contract include costs shown in invoices of subcontractors, suppliers and others, that portion of the costs computed on such invoices can only include costs for: (1) completed work to which the prime contractor has acquired title; (2) materials delivered to which the prime contractor has acquired title; (3) services rendered; and (4) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title.

SECTION II — SPECIFIC INSTRUCTIONS

Item 9. PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE — Line 9 will not be used for Small Business Contracts.

For large business contracts, costs to be shown in Item 9 shall include only those recorded costs which have resulted at time of request in payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract. This includes items delivered, accepted and paid for, resulting in liquidation of subcontractor progress payments.

Costs to be shown in Item 9 are not to include advance payments, downpayments, or deposits, all of which are not eligible for reimbursement; or progress payments made to subcontractors, suppliers or others, which are to be included in Item 14. See "Cost Basis" above.

Item 10. INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE — For all Small Business Contracts, Item 10 will show total costs incurred for the contract.

Costs to be shown in Item 10 are not to include advance payments, downpayments, deposits, or progress payments made to subcontractors, suppliers or others.

For large business contracts, costs to be shown in Item 10 shall include all costs incurred (see "Cost Basis" above) for: materials which have been issued from the stores inventory and placed into production process for use on the contract; for direct labor; for other direct in-house costs; and for properly allocated and allowable indirect costs as set forth under "Cost Basis" above.

Item 12a. Enter the total contract costs incurred to date; if the actual amount is not known, enter the best possible estimate. If an estimate is used, enter (E) after the amount.

Item 12b. Enter the estimated cost to complete the contract. The estimate may be the last estimate made, adjusted for costs incurred since the last estimate; however, estimates shall be made not less frequently than every six months.

Items 14a through 14e. Include only progress payments on subcontracts which conform to progress payment provisions of the prime contract.

Item 14a. Enter only progress payments actually paid.

Item 14b. Enter total progress payments recouped from subcontractors.

Item 14d. For Small Business prime contracts, include the amount of unpaid subcontract progress payment billings which have been approved by the contractor for the current payment in the ordinary course of business. For other contracts, enter "0" amount.

SECTION III — SPECIFIC INSTRUCTIONS. This Section must be completed only if the contractor has received advance payments against this contract, or if items have been delivered, invoiced and accepted as of the date indicated in the heading of Section II above. EXCEPTION: Item 27 must be filled in by the Contracting Officer.

Item 20a. Of the costs reported in Item 11, compute and enter only costs which are properly allocable to items delivered, invoiced and accepted to the applicable date. In order of preference, these costs are to be computed on the basis of one of the following: (a) The actual unit cost of items delivered, giving proper consideration to the deferment of the starting load costs or, (b) projected unit costs (based on experienced costs plus the estimated cost to complete the contract), where the contractor maintains cost data which will clearly establish the reliability of such estimates.

Item 20d. Enter amount from 14e.

Item 21a. Enter the total billing price, as adjusted, of items delivered, accepted and invoiced to the applicable date.

Item 23. Enter total progress payments liquidated and those to be liquidated from billings submitted but not yet paid.

Item 25. Self-explanatory. (NOTE: If the entry in this item is a negative amount, there has been an overpayment which requires adjustment.)

Item 26. Self-explanatory, but if a lesser amount is requested, enter the lesser amount.

SPECIAL INSTRUCTIONS FOR USE UNDER FEDERAL ACQUISITION REGULATION (FAR).

Items 20 and 20e. Delete the references to a(3)(i) of the progress payment clause.

Items 21 and 21e. Delete the references to a(3)(ii) of the progress payment clause.

SPECIMEN

PART 1-30—CONTRACT FINANCING

The table of contents for Part 1-30 is amended to remove 4 entries and revise 11 entries as follows:

1-30.502-1 [Removed]
1-30.503 Customary progress payments.
1-30.503-1 Uniform standard percentages.
1-30.503-2 Applicability of percentages.
1-30.503-3 Indefinite quantity contracts and basic ordering agreements.
1-30.504-5 Non-responsive bids—uninvited progress payment condition.
1-30.504-6 [Removed]
1-30.510-2 [Removed]
1-30.511-2 Uniform standard percentages—firms not small business concerns—paragraphs (a) and (b) of clause.
1-30.511-3 Uniform standard percentages—firms not small business concerns—paragraphs (a) and (b) of clause.
1-30.511-4 Unusual percentages.
1-30.511-5 Other protective provisions.
1-30.511-6 Provisional increases in contract price.
1-30.521-2 [Removed]
1-30.529 Standard Form 1443, Contractor's Request for Progress Payment.

Subpart 1-30.1—Forms of Financing

Section 1-30.104-1 is revised to read as follows:

§ 1-30.104-1 Letters of credit.

Whenever the criteria set forth by the Department of the Treasury in Department Circular No. 1075, 4th Revision, 42 FR 62927, December 14, 1977 (31 CFR Part 205) are met, the letter of credit method of financing advance payments must be used unless waived by the Department of the Treasury.

Subpart 1-30.2—Basic Policies

Section 1-30.209 is amended to revise paragraph (e) to read as follows:

§ 1-30.209 Order of preference.

* * * * *

(e) Advance payments (§ 1-30.408). However, see § 1-30.401(b) for guidance on the use of advance payments for research contracts with educational institutions.

Subpart 1-30.4—Advance Payments

1. Section 1-30.401 is revised to read as follows:

§ 1-30.401 Types of contracts that may have advance payments.

(a) Advance payments may be made on any approved type of contract.

(b) In view of the nonprofit position of educational institutions, and the Government objective of strengthening the research capabilities of these institutions, all agencies shall make advance payments to them in reasonable amounts on contracts for research, whenever practical, in all cases where the agency is authorized by law to do so. (See §§ 1-30.403, 1-30.404, and 1-30.408.)

2. Section 1-30.408-1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1-30.408-1 Use of letter of credit method of financing.

(a) Unless a waiver has been obtained from the Department of the Treasury, the letter of credit method of financing advance payments must be used whenever the criteria set forth in Treasury Department Circular No. 1075 (31 CFR Part 205) and promulgated in regulations contained in Volume I, Part VI, Chapter 2000, of the Treasury Fiscal Requirements Manual are met. The letter of credit method of financing advance payments shall be employed in accordance with agency procedures and Department of the Treasury regulations whenever the agency has, or expects to have, a continuing relationship with a recipient organization for at least 1 year, involving annual advances aggregating at least $120,000. Agency procedures may be applicable to an entire agency, a major organizational unit of an agency (e.g. bureau, service or administration), any component of a major unit, or a lower tier element of such component. The letter of credit procedures may apply to the financing of all contracts and/or grants, or classes of contracts and/or grants between a recipient organization and an agency or any of its components. Since the letter of credit method enables the recipeint organization to withdraw cash from the Treasury concurrently with and as frequently as disbursements are made by the recipient organization, there need be no time lag between drawdowns from the Treasury and disbursements by the recipient organization. Therefore, it is unnecessary for the recipient organization to maintain undisbursed balances of Federal cash to provide for an element of bank float other than small balances necessary to accommodate Treasury minimum limitations on individual drawdowns.

(b) Contracts shall require such adequate security for funds advanced as may be considered appropriate for the protection of the Government under the circumstances of each case, but in any event, the financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds in accordance with governing regulations of the Treasury Department. See § 1-30.413 and 31 CFR Part 205 (also appearing as Department of the Treasury Circular No. 1075, 4th Revision, 42 FR 62927, December 14, 1977).

* * * * *

Subpart 1-30.5—Progress Payments Based on Costs

1. Section 1-30.500-1 is revised to read as follows:

§ 1-30.500-1 Exclusions.

This subpart does not apply to (a) cost-reimbursement type contracts, except as to progress payments to subcontractors and suppliers thereunder (see § 1-30.514), or (b) contracts for construction or for shipbuilding or ship conversion, alteration, or repair, when such contracts provide for progress payments based on a percentage or stage of completion.

2. Section 1-30.502 is revised to read as follows:

§ 1-30.502 General.

(a) *Obligations.* Nothing in these regulations shall be construed to authorize payment of more than the amount obligated on a contract.

(b) *Requests for proposals.* In connection with procurement by negotiation, requests for proposals shall state that contract provision for progress payments will be made in conformity with regulations, and that the need for progress payments conforming to regulations will not be considered as a handicap or adverse factor in the award of contracts. Requests for proposals shall not state a liquidation rate for progress payments (see § 1-30.512).

§ 1-30.502-1 [Removed]

3. Section 1-30.502-1 is removed.

4. Section 1-30.503 is revised to read as follows:

§ 1-30.503 Customary progress payments.

(a) Certain contracts may require a contractor to incur predelivery or unbillable partial performance expenditures that will have a material impact on the contractor's working funds. These include production contracts which involve a long "lead time" or preparatory period between the beginning of work and the first production delivery, normally involving 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns. They also include some contracts for research and development and some contracts for services which have a long time period, of approximately 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns, between the beginning of work and the first

opportunity to bill and receive payment for a significant element of contract performance. Progress payments are customary at (1) the uniform standard percentages of total costs (§ 1–30.503–1), (2) the uniform cost base (§ 1–30.509–5), (3) the frequency of payment established in the progress payment clause (§ 1–30.510–1), and (4) the ordinary liquidation method (§ 1–30.512–1) unless changed to the alternate method as provided in § 1–30.512–2 on this category of contracts and letter contracts comtemplating a definitive fixed price type of contract. Length of lead time, or length of the time period within which billings for deliveries or for significant partial performance cannot be accomplished, are not factors in qualifying letter contracts and their superseding definitive contracts for customary progress payments. Contract financing arrangements other than those set forth in this paragraph are regarded as unusual, and not within the category of customary progress payments (§ 1–30.505).

(b) The long lead time or preparatory period in these cases, and the accompanying predelivery or pre-partial performance billing expenditures that may have a material impact on the contractor's working funds, and the equivalent circumstances of letter contracts and their superseding definitive contracts, are regarded as making these customary progress payments reasonably necessary. The general preference for private financing is not applicable to this class of cases. Provision for customary progress payments will be made as a matter of course when requested by contractors who are known (from experience or adequate preaward investigation) to be reliable, competent capable of satisfactory performance, in satisfactory financial condition, and to have an adequate accounting system and controls. In such cases, it is not necessary to require projections of cash receipts and expenditures or other demonstration of actual reasonable need for progress payments. However, in order to minimize administrative effort and expense, progress payments will be discouraged on relatively small contracts of the stronger and larger contractors who are not small business concerns; e.g., contracts for less than $1 million, unless the circumstances of a group of such contracts, for contemporaneous performance, make such contracts the approximate equivalent of a larger contract that would have a material impact on the contractor's working funds. If a small business concern and the contract involved meet the above standards for customary progress payments, the smallness of the contract shall not deter the making of provision for customary progress payments to such small business concern.

5. Section 1–30.503–1 is revised and the caption changed to read as follows:

§ 1–30.503–1 Uniform standard percentages.

The uniform standard progress payment rate is 90 percent of total costs for firms which are not small business concerns, and 95 percent of total costs for small business concerns, whether or not awarded by formal advertising. Higher percentages will be regarded as unusual (§ 1–30.505) and not within the category of customary progress payments. No percentage higher than the uniform standard progress payment may be offered in any solicitation unless approved in advance in accordance with § 1–30.505.

6. Section 1–30.503–2 is revised to read as follows:

§ 1–30.503–2 Applicability of percentages.

The uniform standard percentages authorized by § 1–30.503–1 apply to new contracts; new procurement effected by supplements, amendments, or other modifications of existing contracts; definitive contracts superseding letter contracts; contracts effecting new procurement under basic agreements; orders or other instruments under basic ordering agreements or indefinite quantity contracts; all supplements, amendments, or other modifications which affect or provide for progress payments; and any outstanding contracts which contain optional provision as to progress payment percentages. Higher percentages for new contracts will be regarded as unusual (§ 1–30.505) and not within the category of customary progress payments.

7. Section 1–30.503–3 is revised to read as follows:

§ 1–30.503–3 Indefinite quantity contracts and basic ordering agreements.

(a) Ordinarily, progress payments will not be undertaken in indefinite quantity contracts or basic ordering agreements which do not provide for payments and liquidation by a single office. Otherwise, for indefinite quantity contracts (§ 1–30.409(c)) and basic ordering agreements (§ 1–3.410–3) contemplating requisitions, delivery orders, work orders, task orders, job orders or their equivalent, if the contractor meets all other requirements for customary progress payments, the decision as to whether progress payments come within the customary category will depend upon estimates of the amount of work expected to be done, and the production lead time expected to be necessary for the major part of the work anticipated. In these cases, provision for progress payments in the indefinite quantity contract or basic ordering agreement may be deemed customary if the amounts involved, and the production lead time, result in conditions substantially equivalent to those required for authorization of customary progress payments. Insofar as practicable, the progress payment provision of an indefinite quantity contract or basic ordering agreement shall fix a single liquidation rate to be applicable to all procurement actions under that agreement. The standards for unusual progress payments govern when progress payments are not of the customary type.

(b) Progress payments made under indefinite quantity contracts and basic ordering agreements shall normally be processed on the basis of individual orders or calls. Except as provided below, for progress payment purposes, each order, call, or equivalent procurement action with progress payments, will be treated as a separate contract. Alternatively, at the contractor's request, but with the specific approval of the contracting officer provision may be made to process progress payments against the basic contract/agreement. Whenever the contract/agreement method is used, the contractor shall be required to submit a supporting schedule for each Contractor's Request For Progress Payment (see § 1–30.529), identifying the costs applicable to each call or order. Subject to the above restrictions, for progress payment purposes, all procurement actions under the basic contract (1) involving progress payments on a procurement action, (2) having a single uniform liquidation rate, and (3) for payment by a single paying office, may be grouped and aggregated so that the contract price, costs, payments, and liquidations will be handled in the same way as if all such procurement actions constituted work under a single fixed-price type contract.

8. Section 1–30.504–1 is amended to revise paragraphs (a)(2), (b), and (c) to read as follows:

§ 1–30.504–1 Progress payment provision in invitations for bids.

(a) * * *

(2) Provision for progress payments ordinarily will not be made in invitations for bids when the procurement is for quick turnover items of kinds for which predelivery financing

by progress payments is not the custom or practice on sales by members of the industry or private commercial customers, such as: (i) Subsistence, (ii) clothing and apparel, (iii) "off-the-shelf" items, and (iv) standard commercial items or equivalent items (including medical and dental supplies), not requiring substantial accumulation of predelivery expenditures.

* * * * *

(b) When progress payments are contemplated, the invitations for bids should include the notice set forth in § 1–30.504–4(a). This notice to bidders may be modified as provided in paragraph (c) of this section.

(c) In unusual circumstances, the contracting officer may consider it to be in the interest of the Government to contemplate progress payments, but to provide for application of the criteria specified in § 1–30.504–1(a)(1) after the opening of bids. In such event, the invitations shall state that upon written request by the prospective contractor a progress payment clause, of a type considered appropriate to the circumstances, will be included in the contract at the time of award if the contracting officer considers the contractor eligible under applicable regulations. (See § 1–30.504–4(b) for appropriate notice to bidders.)

9. Section 1–30.504–2 is revised to read as follows:

§ 1–30.504–2 Small business restricted advertising.

The policy and standards set forth in § 1–30.504–1 also apply to procurement by "Small Business Restricted Advertising" and for procurement pursuant to § 1–30.504–3. When progress payments are contemplated in these cases, provision will be made for progress payment percentage at 95 percent of total costs.

10. Section 1–30.504–4 is amended to revise paragraph (a) to read as follows:

§ 1–30.504–4 Notice to bidders.

(a) Those invitations for bids that make provision for progress payments pursuant to § 1–30.504–1(b) should contain substantially the following notice to bidders:

Progress Payments*

The need for progress payments conforming to regulations (Part 1–30, Federal Procurement Regulations) will not be considered as a handicap or adverse factor in the award of contracts. Authorized progress payments will not be a factor for evaluation of bids. The appropriate "Progress Payment" clause attached hereto will be included in the contract awarded in the manner herein provided; however, the clause shall be inoperative during the time the contractor's accounting system and controls are determined by the Government to be inadequate for segregation and accumulation of contract costs. For small business concerns the clause designated "Progress Payment for Small Business Concerns" (§ 1–30.510–1(b)) shall be used for such contractors. For contractors who are not small business concerns, the clause designated "Progress Payment for Other Than Small Business Concerns" (§ 1–30.510–1(a)) shall be used. (End of notice)

*Do not use the last sentence of this notice for procurements mentioned in §§ 1–30.504–2 and 1–30.504–3.

* * * * *

11. Section 1–30.504–5 is revised and § 1–30.504–6 is removed as follows:

§ 1–30.504–5 Nonresponsive bids—uninvited progress payment condition.

To minimize the possibility of misunderstandings, the recipients of invitations for bids, or those included on bidders lists, should be informed and kept aware that when invitations for bids do not provide for progress payments, progress payment clauses cannot be included in the contract at time of award, and that bids conditioned upon provision for progress payments will have to be rejected as nonresponsive. This precautionary warning notice may be included in invitations for bids, may accompany invitations for bids, or may be otherwise circulated or made known to prospective bidders by such means as are considered appropriate. Also, prospective bidders who are not small business concerns should be given appropriate precautionary warning notice that when invitations for bids provide for progress payments for small business concerns only (§ 1–30.504–3), progress payment provision cannot be made for contractors who are not small business concerns, and that bids of those who are not small business concerns, if conditioned upon provision for progress payments, will have to be rejected as nonresponsive.

§ 1–30.504–6 [Removed]

12. Section 1–30.505 is amended to revise paragraph (b) to read as follows:

§ 1–30.505 Unusual progress payments—standards—procedure.

* * * * *

(b) Such cases must involve a preparatory period requiring contractor's predelivery expenditures that are large in relation to the contract price and in relation to the contractor's working capital and credit. Contract provisions for progress payments in this category will be only supplementary to private financing, including guaranteed loans, in amounts necessary for contract performance. The percentage rates for progress payments in this category will be determined on a minimum basis commensurate with the contractor's production schedule requirements and minimum inventory lead time, with due regard to the contractor's projected cash needs, cash resources, and their planned application.

* * * * *

13. Section 1–30.508 is revised to read as follows:

§ 1–30.508 Advance payments.

When advance payments and progress payments are authorized in the same contract, progress payment percentages shall not exceed the uniform standard percentages in §§ 1–30.503 and 1–30.504. In these cases, the words "less unliquidated advance payments" may be deleted from paragraphs (a)(4)(ii) of the progress payment clause for other than small business concerns (see § 1–30.510–1(a)) and (a)(3)(ii) of the progress payment clause for small businesses (see § 1–30.510–1(b)), in accordance with agency procedures.

14. Section 1–30.509–4 is revised to read as follows:

§ 1–30.509–4 Costs.

For progress payment purposes, costs, except as otherwise limited in this paragraph, include all expenses of contract performance which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices, and not excluded by the contract. Limitations on costs that may be accepted for progress payments are contained in the clauses in § 1–30.510–1.

15. Section 1–30.509–5 is revised to read as follows:

§ 1–30.509–5 Incurred costs.

(a) Incurred costs are those costs identified through the use of the accrual method of accounting and reporting. As to invoices, incurred costs include only invoices for (1) completed work to which the prime contractor has acquired title, (2) materials delivered (to which the prime contractor has acquired title), (3) services rendered, (4) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title, and (5) invoices for progress payments to subcontractors, which have been paid or approved for current payment in the ordinary course of business (as specified in the prime contract), all properly recorded on the books of the contractor and identified with the contracts. Costs incurred are exclusively costs of direct labor, direct material, and direct

services identified with and necessary for the performance of the contract, and also all properly allocable and allowable overhead (indirect) costs recorded on the books of the contractor.

(b) However, for those contractors who elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, "Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives," General and Administrative Expenses (G&A) shall not be included in incurred costs eligible for progress payments until the work-in-process inventories of those contracts entered into after the applicability date of CAS 410, exceed the amounts contained in the CAS 410 suspense account and then limited to the contract's pro rata share of the G&A allocable to such excess. This limitation shall not apply where the CAS 410 suspense account is less than $5 million.

(c) Facilities capital cost of money, which is recognized as an allowable cost by § 1–15.205–51, shall be deemed an incurred cost for progress payment purposes. When this cost is allocated in accordance with applicable regulations and records are maintained in accordance with § 1–15.205–51, it shall be a "properly allocable and allowable indirect cost as shown by records maintained by the contractor" within the meaning of that requirement as included in the Computation of Amounts provision of the appropriate Progress Payment clause set forth in § 1–30.510–1.

(d) For the purpose of progress payments to other than small business concerns in connection with items or services purchased directly for the contract, costs must be paid as well as incurred as shown by payment made by cash, check, interdivisional notices of payment, or other form of actual payment.

16. Section 1–30.509–7 is revised to read as follows:

§ 1–30.509–7 Contract price.

The term "contract price" means the total amount fixed by the contract (other than any portion of the contract specifically providing for cost reimbursement only), as amended, to be paid for complete performance of the contract. If the contract provides for economic price adjustment or for redetermination of price, this term means the initial price until changed and not the ceiling price. If the contract is of the incentive type, the term means the target or billing price, as amended, until final pricing. This definition shall also apply to incentive type subcontracts containing a progress payment clause. For letter contracts and similar preliminary contractual instruments, this term means the maximum expenditure authorized by the contract, as amended.

17. Section 1–30.510 is revised to read as follows:

§ 1–30.510 Contract clauses.

Subject to the instructions in §§ 1–30.511 and 1–30.512, the Progress Payment clauses in § 1–30.510–1 shall be used when payments are to be made to a contractor based upon a percentage of costs. The clause contained in § 1–30.510–1(a) shall be used in contracts with other than small business concerns. The clause contained in § 1–30.510–1(b) shall be used in contracts with small business concerns.

18. Section 1–30.510–1 is revised to read as follows:

§ 1–30.510–1 Total costs clauses.

One of the following clauses shall be used whenever progress payments are to be based upon a percentage of costs in accordance with the instructions in § 1–30.510:

(a) *Progress payment clause for other than small business concerns.*

Progress Payment for Other Than Small Business Concerns

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) 90 percent of the amount of the Contractor's total costs which, except as provided in (a)(2) below, shall include only those recorded costs which result, at the time of the request, from payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) cost incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, all as shown by records maintained by the Contractor for purposes of obtaining payment under Government contracts plus (ii) the amount of progress payments which have been paid to Contractor's subcontractors and other divisions as provided in (j) below; all less the sum of previous progress payments.

(2)(i) With respect to costs of pension, profit sharing, and employee stock ownership plan contributions, when these contributions are paid by the Contractor to the pension, profit sharing, or employee stock ownership plan funds less frequently than quarterly, accruals of the costs of these contributions shall be excluded from the Contractor's total costs for progress payment purposes until such costs are paid. If pension, profit sharing, and employee stock ownership plan contributions are paid on a quarterly or more frequent basis, accruals of costs of these contributions may be included in the Contractor's total costs for progress payment purposes *provided* these contributions are paid to the pension, profit sharing, and employee stock ownership plan funds within 30 days after the close of the period covered by the payment. If payments are not made to the pension, profit sharing, and employee stock ownership plan funds within such 30 day period, these costs shall be excluded from the Contractor's total costs for progress payment purposes until payment therefor has been made.

(ii) For those Contractors who elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, "Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives", general and administrative expenses (G&A) shall not be included in incurred costs eligible for progress payments until the work-in-process inventories of those contracts entered into after the applicability date of CAS 410, exceed the amounts contained in the CAS 410 suspense account and then limited to this contract's pro rata share of the G&A allocable to such excess. This limitation shall not apply where the CAS 410 suspense account is less than 5 million dollars.

(3) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(4) The amount of unliquidated progress payments shall not exceed the lesser of (i) 90 percent of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) 90 percent of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(5) The aggregate amount of progress payments made shall not exceed 90 percent of the total contract price.

(6) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(b) *Liquidation.* Except as provided in the clause entitled "Termination for Convenience

of the Government", all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or 90 percent, or the applicable percentage (calculated in accordance with references in the *footnote at the end of the clause) of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to the alternate rate when deemed appropriate for proper contract financing.

(c) *Reduction or suspension.* The Contracting Officer may reduce or suspend progress payments, or liquidate them on a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (1) has failed to comply with any material requirement of this contract, (2) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (3) has allocated inventory to this contract substantially exceeding reasonable requirements, (4) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (5) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (6) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) *Title.* Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocable or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Nothwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisioins of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof), which had not been delivered to and accepted by the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract, and to which title has vested in the Government under this clause, shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

(e) *Risk of loss.* Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payment based on costs allocable to such lost, stolen, destroyed or damaged property.

(f) *Control of costs and property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and information-access to records.* Insofar as pertinent to the administration of this clause, the Contractor will (1) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (2) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) *Special provisions regarding default.* If this contract is terminated pursuant to the clause entitled "Default," (1) the Contractor shall, upon demand, pay the Government the amount of unliquidated progress payments, and (2) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) *Reservations of rights.* The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) *Progress payments to subcontractors.*

(1) The amounts mentioned in item (a)(1)(ii) of this clause shall be all progress payments paid by the Contractor to his subcontractors or other divisions and remaining unliquidated when under subcontracts or interdivisional orders which conform to (2) below.

(2) Subcontracts or interdivisional orders on which progress payments to subcontractors or other divisions may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time" between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as this "Progress Payment" clause, (except that in the case of those subcontractors which are small business concerns, a "Progress Payment" clause substantially similar to that contained in § 1–30.510–1(b) of the Federal Procurement Regulations (FPR) may be used). Progress payment rates for subcontractors shall be the uniform, standard progress payment rate under FPR § 1–30.503–1. All rights of the subcontractor with respect to all property to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) To facilitate small business participation in subcontracting under this

contract, the Contractor agrees to offer and provide progress payments to those subcontractors that are small business concerns, in conformity with the standards for customary progress payments stated in § 1-3.503 of the FPR as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

*See §§ 1-30.512-2 and 1-30.512-3 for calculation of alternate liquidation percentages. For contractors who elected to use the transition method in Appendix A of CAS 410, see §§ 1-30.512-1 and 1-30.512-3(f) for calculation of adjusted ordinary and alternate liquidation percentages.

(b) *Progress payment clause for small business concerns.*

Progress Payment for Small Business Concerns

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer under the following terms and conditions.

(a) *Computation of amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) 95 percent of the amount of the Contractor's total costs incurred under this contract, except as provided herein with respect to costs of pension contributions, plus (ii) the amount of progress payments to subcontractors as provided in (j) below; all less the sum of previous progress payments. With respect to costs of pension contributions, when pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accruals of the costs of these pension contributions shall be excluded from the Contractor's total costs for progress payment purposes until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals of the costs of these pension contributions may be included in the Contractor's total costs for progress payment purposes provided that the pension contributions are paid to the retirement fund within 30 days after the close of the period covered by the payment. If payments are not made to the fund within such 30 day period, pension contribution costs shall be excluded from the Contractor's total costs for progress payment purposes until payment therefor has been made.

(2) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and materials subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(3) The amount of unliquidated progress payments shall not exceed the lesser of (i) 95 percent of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) 95 percent of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(4) The aggregate amount of progress payments made shall not exceed 95 percent of the total contract price.

(5) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(b) *Liquidation.* Except as provided in the clause entitled "Termination for Convenience of the Government," all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or 95 percent* (See footnote at end of clause) of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly.

(c) *Reduction or suspension.* The Contracting Officer may reduce or suspend progress payments, or liquidate them at a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (1) has failed to comply with any material requirement of this contract, (2) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (3) has allocated inventory to this contract substantially exceeding reasonable requirements, (4) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (5) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (6) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) *Title.* Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e. noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocable or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Notwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisions of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof) which had not been delivered to, and accepted by the Government under this contract and to which title has vested in the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has vested in the Government under this clause shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

(e) *Risk of loss.* Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payments based on costs allocable to such lost, stolen, destroyed, or damaged property.

(f) *Control of costs and property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and information—access to records.* Insofar as pertinent to the administration of this clause, the Contractor will (1) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (2) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) *Special provisions regarding default.* If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) *Reservations of rights.* The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) *Progress payments to subcontractors.*

(1) The amount mentioned in item (a)(1)(ii) of this clause shall be the sum of (i) all the progress payments made by the Contractor to his subcontractors and remaining unliquidated, and (ii) unpaid billings for progress payments to subcontractors which have been approved for current payment in the ordinary course of business, when under subcontracts which conform to (2) below.

(2) Subcontracts on which progress payments to subcontractors may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time" between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as the "Progress Payments" clause set forth in § 1–30.510–1(a) of the Federal Procurement Regulations (FPR), (except that in the case of those subcontractors which are small business concerns, a "Progress payment" clause substantially similar to this clause may be used). Progress payment rates for subcontractors shall be the uniform, standard progress payment rate under FPR § 1–30.503–1. All rights of the subcontractor with respect to all property to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) The billings described in (j)(1)(ii) above shall be paid promptly by the Contractor in the ordinary course of business, not later than a reasonable time after payment of equivalent amounts by the Government to the Contractor.

(5) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in § 1–30.503 of the FPR, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

*For lower percentages for this paragraph (b) and for (a)(3)(ii) and (a)(4), see § 1–30.512–1.

§ 1–30.510–2 [Removed]

19. Section 1–30.510–2 is removed.

20. Section 1–30.511 is revised to read as follows:

§ 1–30.511 General instructions for progress payment clauses.

The following instructions apply to the clauses required by § 1–30.510 and set forth in § 1–30.510–1.

21. Section 1–30.511–2 is revised and the caption is changed to read as follows:

§ 1–30.511–2 Uniform standard percentages—firms not small business concerns—paragraphs (a) and (b) of clause.

For contracts with contractors that are not small business concerns, except as provided in § 1–30.511–4, the figure of 90 percent stated in paragraphs (a)(1)(i), (a)(4)(i), (a)(4)(ii), (a)(5) and (b) of the clause in § 1–30.510–1(a) is the uniform standard percentage for use in those paragraphs for all contracts, whether awarded on the basis of formal advertising or negotiation.

22. Section 1–30.511–3 is revised and the caption is changed to read as follows:

§ 1–30.511–3 Uniform standard percentages—small business concerns—paragraphs (a) and (b) of clause.

For contracts with small business concerns, except as provided in § 1–30.511–4, a figure of 95 percent shall be specified in paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (a)(4) and (b) of the clause in § 1–30.510–1(b). This is the standard percentage for all contracts awarded to small businesses, whether on the basis of formal advertising (see §§ 1–30.504–1, 1–30.504–2, or 1–30.504–3) or negotiation.

23. Section 1–30.511–4 is revised and the caption is changed to read as follows:

§ 1–30.511–4 Unusual percentages.

For unusual progress payments (§ 1–30.505), the percentage used for paragraph (a)(1)(i) of the clauses in § 1–30.510–1 will also be specified in paragraph (a)(4)(i) of the clause for other than small business concerns (§ 1–30.510–1(a)) and in paragraph (a)(3)(i) of the clause for small business concerns (§ 1–30.510–1(b)). For these contracts, if a percentage lower than the percentage used for paragraph (a)(1)(i) is stated in paragraph (b) of the clause pursuant to § 1–30.512–2, the exact percentage stated in paragraph (b) shall also be specified in paragraphs (a)(4)(ii) and (a)(5) of the clause for other than small business concerns (§ 1–30.510–1(a)) and paragraphs (a)(3)(ii) and (a)(4) of the clause for small business concerns (§ 1–30.510–1(b)).

24. Section 1–30.511–5 is revised to read as follows:

§ 1–30.511–5 Other protective provisions.

When deemed reasonably necessary for the protection of the Government, the clauses set forth in § 1–30.510–1 may be supplemented by additional protective provisions, such as personal or corporate guarantees, subordinations or standbys of indebtedness, special bank accounts, and other protective covenants of the kinds outlined in item (r) of § 1–30.414–2. When first article approval is required, additional protective provisions shall be used reciting that, until first article approval, there shall be no progress payments, or that the aggregate of progress payments for first article costs shall be limited to a stated amount, or percentage (less than the percentage used in paragraph (a)(4) of the clause in § 1–30.510–1(a) and paragraph (a)(3) of the clause in § 1–30.510–1(b)) of the contract price.

25. Section 1–30.511–6 is revised to read as follows:

§ 1-30.511-6 Provisional increases in contract price.

Ordinarily, the definitized price shall be the basis for limiting the aggregate amount of progress payments within the meaning of "total contract price" as used in paragraph (a)(5) of the clause in § 1-30.510-1(a) and paragraph (a)(4) of the clause in § 1-30.510-1(b). An exception exists if the application of this limitation would result in an inability to pay progress payments for costs properly incurred for authorized but unpriced contractual actions pertaining to the definitized contract, or in the case of incentive-type contracts, if the contractor's costs exceed the target price. When this exception exists, the contracting officer may make a provisional increase in the contract price for the purpose of paragraph (a)(5) of the clause in § 1-30.510-1(a) and paragraph (a)(4) of the clause § 1-30.510-1(b). The provisional increase to the contract price shall not exceed the amount recorded as an obligation based upon the Government's estimate of its liability for those unpriced contractual actions.

26. Section 1-30.512 is revised to read as follows:

§ 1-30.512 Progress payment liquidation.

Controlling principles for liquidation of progress payments based on costs, and for specification of a percentage in paragraph (b) of the clauses in § 1-30.510-1 are set forth in this § 1-30.512.

27. Section 1-30.512-1 is revised to read as follows:

§ 1-30.512-1 Ordinary method.

The percentages specified in § 1-30.511-2 and § 1-30.511-3 for paragraph (b) of the Progress Payment clauses (§ 1-30.510-1) represent the ordinary method for liquidation of progress payments, i.e., the percentage for progress payments stated in paragraph (a)(1)(i) of each clause will also be the percentage for liquidation stated in paragraph (b) of such clause. However, when a contract is subject to a limitation on General and Administrative (G&A) expenses eligible for progress payments because a contractor elected to use the special transition method provided in Cost Accounting Standard 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objectives, an adjusted ordinary liquidation rate will be used. The adjusted liquidation rate will be established by subtracting from the progress payment percentage stated in the contract, the percentage computed by multiplying the progress payment percentage by the results of dividing the unbilled G&A expense by the contract price. For example, if the price was $1,100,000 and the unbilled G&A was $47,600 the liquidation rate would be:

	Percent
Progress payment percentage	90.00
Less: Unbilled G&A ÷ contract price × progress payment percentage ($47,600 ÷ 1,100,000) × 90 pct	3.89
Total	86.11

These methods of liquidation are the only methods authorized for use at the inception of a contract.

28. Section 1-30.512-2 is revised to read as follows:

§ 1-30.512-2 Alternate method.

(a) The alternate method for liquidation of progress payments involves the use of a percentage rate of liquidation which will (1) effect liquidation of the amount of progress payments involved in each invoice from which liquidation of progress payments is to be made (i.e., recovery of the portion of costs for which progress payments have been made), (2) permit payment to the contractor of not more than the cost of items delivered and accepted (less allocable progress payments) and his earned profit on those items, and (3) ensure that unliquidated progress payments will not exceed the amount permitted by paragraph (a)(4) of the Progress Payment clause in § 1-30.510-1(a) and paragraph (a)(3) of the clause in § 1-30.510-1(b).

(b) Adequate consideration shall be deemed to exist in the initial negotiation of the contract for subsequent changes in the percentage of liquidation. A negotiated contract shall be amended to substitute the alternate rate of liquidation for the ordinary rate when all of the following conditions are met:

(1) Contract delivery schedule extends 18 months or more beyond the contract award date.

(2) Data on actual costs are available for the products delivered, or, if no deliveries have been made, for a performance period of at least 12 months.

(3) The contractor requests the alternate rate and furnishes data on actual cumulative costs and estimated future costs to complete the contract, which satisfactorily fulfill the requirements in § 1-30.512-2(a).

(4) The parties agree on an appropriate percentage rate of liquidation.

(5) The contractor agrees to provide updated information on an annual basis or upon request of the contracting officer and certify as to the continued validity of the alternate rate in relation to the § 1-30.512.2(a) requirements. When the above-stated conditions are met, the contracting officer shall take prompt action to amend the contract to provide for the alternate liquidation rate.

(c) If profit rates on contracts subject to price redetermination or to incentive price revision are changed by contract modification, appropriate harmonizing changes to conform to § 1-30.512-2(a) will be made at the time of such modification in the stated percentage for future progress payment liquidation. Except as done incident to modification of a profit rate on contracts subject to price redetermination or to incentive price revision, above, contracts may be amended to reduce the progress payment liquidation rate not more frequently than once in each period of twelve months. Amendments reducing liquidation rates will be retroactive as well as prospective and appropriate adjustment will be made for items theretofore delivered and associated progress payments. When a progress payment liquidation rate is changed by contract amendment, appropriate conforming changes will be made in (a)(4)(ii) and (a)(5) of the clause in § 1-30.510-1(a) and (a)(3)(ii) and (a)(4) of the clause in § 1-30.510-1(b) so that the new percentage specified in paragraph (b) of the progress payment clause will also be specified in these paragraphs.

(d) Contract amendments that substitute an alternate rate of liquidation for the ordinary rate shall include the following provision:

> On an annual basis, or more frequently as determined necessary by the contracting officer, the contractor agrees to (1) certify in relation to the requirements of § 1-30.512-2(a) of the Federal Procurement Regulations as to the continued validity of the liquidation rate in the progress payment clause as hereby amended and (2) furnish information which adequately supports the certification.

(e) Revision of an alternate liquidation rate (§ 1-30.512-3) would occur because either (1) a contractor is realizing more profit than previously anticipated and the liquidation rate is to be adjusted downward, or (2) a contractor is achieving less profit than anticipated and the liquidation rate is to be adjusted upward. A contractor should be promptly paid any amount improperly withheld, and conversely, any overpayments should be promptly recouped. Therefore, revised liquidation rates should apply retroactively and prospectively. This policy will be administered in accordance with the provisions of § 1-30.524.

29. Section 1-30.512-3 is revised to read as follows:

§ 1-30.512-3 Liquidation percentages.

(a) For the purposes of § 1-30.512-2, the minimum liquidation rate has to be enough to recover the full amount of progress payments by way of deductions from delivery billings. The amount of expected progress payments divided by the contract price, gives the minimum liquidation percentage. The amount of expected progress payments is the product of multiplication of the progress payment percentage by either: (1) The total estimated contract costs, or (2) the total estimated contract cost less estimated G&A costs not eligible for progress payments because a contractor elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, Allocation of Business Unit General Administrative Expense to Final Cost Objectives. For the purpose of this paragraph, the contract price may be calculated by the contracting office to include authorized but undefinitized work and projected economic adjustments; however, the price thus calculated may not exceed the Government's estimate of the price of all authorized work. The contract files shall document the basis and rationale for calculation of such rates. Examples of computations of the alternate liquidation rates when progress payments are made at 90 percent are as follows:

(i) If price is $1,000,000 and total estimated cost of $1,000,000 is eligible for progress payments, the liquidation rate would be:

$$\frac{1{,}000{,}000 \times 90\%}{1{,}100{,}000} = 81.82\%$$

(ii) If price is $1,10,000 and total estimated cost includes $47,600 of G&A not eligible for progress payments, the liquidation rate would be:

$$\frac{(1{,}000{,}000 - 47{,}600) \times 90\%}{1{,}100{,}000} = 77.92\%$$

(b) For the computation of minimum rates of liquidation, fractions of a percentage point will be expressed in tenths. Fractions between tenths will be rounded upward to the next higher tenth of a point as follows:

(1) 63.64 percent would be expressed as 63.7 percent in the contract.

(2) 68.18 percent would be expressed as 68.2 percent in the contract.

(3) 72.72 percent would be expressed as 72.8 percent in the contract.

(4) 72.27 percent would be expressed as 77.3 percent in the contract.

(5) 81.81 percent would be expressed as 81.9 percent in the contract.

(c) Further illustrative examples of minimum liquidation rates for contracts not subject to the CAS 410 suspense account limitation on G&A expense are set out in paragraph (d) of this section.

For the purposes of § 1-30.512-2, the profit rate is deemed to be amount by which the fixed or target contract price exceeds estimated total costs within the fixed or target price, divided by those estimated total costs as follows:

$$\frac{\text{Price-Costs}}{\text{Costs}} = \text{Profit Rate}$$

If the estimated profit rate falls between tenths of a percentage point, the fraction of a tenth will be dropped off for computation of a minimum liquidation rate. For example, a profit rate of 8.21 percent or 8.29 percent would be used as 8.2 percent for this computation of a minimum liquidation rate.

(d) Illustrative minimum progress payment liquidation rates.

MINIMUM LIQUIDATION RATE WITH PROGRESS PAYMENT RATE

Profit rate	Percent												
	80	85	90	91	92	93	94	95	96	97	98	99	100
2.0	78.5	83.4	88.3	89.3	90.2	91.2	92.2	93.2	94.2	95.1	96.1	97.1	98.1
3.0	77.7	82.6	87.4	88.4	89.4	90.3	91.3	92.3	93.2	94.2	95.2	96.2	97.1
4.0	77.0	81.8	86.6	87.5	88.5	89.5	90.4	91.4	92.3	93.3	94.3	95.2	96.2
4.1	76.9	81.7	86.5	87.5	88.4	89.4	90.3	91.3	92.3	93.2	94.2	95.1	96.1
5.0	76.2	81.0	85.8	86.7	87.7	88.6	89.6	90.5	91.5	92.4	93.5	94.3	95.3
6.0	75.5	80.2	84.9	85.9	86.8	87.8	88.7	89.7	90.6	91.5	92.5	93.4	94.4
7.0	74.8	79.5	84.2	85.1	86.0	87.0	87.9	88.8	89.8	90.7	91.6	92.6	93.5
7.1	74.7	79.4	84.1	85.0	85.9	86.9	87.8	88.7	89.7	90.6	91.5	92.5	93.4
7.2	74.7	79.3	84.0	84.9	85.9	86.8	87.7	88.7	89.6	90.5	91.5	92.4	93.3
7.3	74.6	79.3	83.9	84.8	85.8	86.7	87.6	88.6	89.5	90.4	91.4	92.3	93.2
7.4	74.5	79.2	83.8	84.8	85.7	86.6	87.6	88.5	89.4	90.4	91.3	92.2	93.1
7.5	74.5	79.1	83.8	84.7	85.6	86.6	87.5	88.4	89.3	90.3	91.2	92.1	93.1
7.6	74.4	79.0	83.7	84.6	85.5	86.5	87.4	88.3	89.3	90.2	91.1	92.0	93.0
7.7	74.3	79.0	83.6	84.5	85.5	86.4	87.3	88.2	89.2	90.1	91.0	92.0	92.9
7.8	74.3	78.9	83.5	84.5	85.4	86.3	87.2	88.2	89.1	90.0	90.9	91.9	92.8
7.9	74.2	78.8	83.5	84.4	85.3	86.2	87.2	88.1	89.0	89.9	90.9	91.8	92.7
8.0	74.1	78.7	83.4	84.3	85.2	86.2	87.1	88.0	88.9	89.9	90.8	91.7	92.6
8.1	74.0	78.7	83.3	84.2	85.1	86.1	87.0	87.9	88.8	89.8	90.7	91.6	92.5
8.2	74.0	78.6	83.2	84.1	85.1	86.0	86.9	87.8	88.8	89.7	90.6	91.5	92.5
8.3	73.9	78.5	83.1	84.1	85.0	85.9	86.8	87.8	88.7	89.6	90.5	91.5	92.4
8.4	73.8	78.5	83.1	84.0	84.9	85.8	86.8	87.7	88.6	89.5	90.4	91.4	92.3
8.5	73.8	78.4	83.0	83.9	84.8	85.8	86.7	87.6	88.5	89.4	90.4	91.3	92.2
8.6	73.7	78.3	82.9	83.8	84.8	85.7	86.6	87.5	88.4	89.4	90.3	91.2	92.1
8.7	73.6	78.2	82.8	83.8	84.7	85.6	86.5	87.4	88.4	89.3	90.2	91.1	92.0
8.8	73.6	78.2	82.8	83.7	84.6	85.5	86.4	87.4	88.3	89.2	90.1	91.0	92.0
8.9	73.5	78.1	82.7	83.6	84.5	85.4	86.4	87.3	88.2	89.1	90.0	90.9	91.9
9.0	73.4	78.0	82.6	83.5	84.4	85.4	86.3	87.2	88.1	89.0	89.9	90.9	91.8
9.1	73.4	78.0	82.5	83.4	84.4	85.3	86.2	87.1	88.0	88.9	89.9	90.8	91.7
9.2	73.3	77.9	82.5	83.4	84.3	85.2	86.1	87.0	88.0	88.9	89.8	90.7	91.6
9.3	73.2	77.8	82.4	83.3	84.2	85.1	86.0	87.0	87.9	88.8	89.7	90.6	91.5
9.4	73.2	77.7	82.3	83.2	84.1	85.0	86.0	86.9	87.8	88.7	89.6	90.5	91.4
9.5	73.1	77.7	82.2	83.1	84.1	85.0	85.9	86.8	87.7	88.6	89.5	90.5	91.4
9.6	73.0	77.6	82.2	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.5	90.4	91.3
9.7	73.0	77.5	82.1	83.0	83.9	84.8	85.7	86.6	87.6	88.5	89.4	90.3	91.2
9.8	72.9	77.5	82.0	82.9	83.8	84.7	85.7	86.6	87.5	88.4	89.3	90.2	91.1
9.9	72.8	77.4	81.9	82.8	83.8	84.7	85.6	86.5	87.4	88.3	89.2	90.1	91.0
10.0	72.8	77.3	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0	90.9
10.1	72.7	77.2	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.1	89.0	90.0	90.9
10.2	72.6	77.2	81.7	82.6	83.5	84.4	85.3	86.2	87.2	88.1	89.0	89.9	90.8
10.3	72.6	77.1	81.6	82.5	83.4	84.4	85.3	86.2	87.1	88.0	88.9	89.8	90.7
10.4	72.5	77.0	81.6	82.5	83.4	84.3	85.2	86.1	87.0	87.9	88.8	89.7	90.6
10.5	72.4	77.0	81.5	82.4	83.3	84.2	85.1	86.0	86.9	87.8	88.7	89.6	90.5
10.6	72.4	76.9	81.4	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.6	89.6	90.5

MINIMUM LIQUIDATION RATE WITH PROGRESS PAYMENT RATE—Continued

Profit rate	Percent												
	80	85	90	91	92	93	94	95	96	97	98	99	100
10.7	72.3	76.8	81.3	82.2	83.1	84.1	85.0	85.9	86.8	87.7	88.6	89.5	90.4
10.8	72.2	76.8	81.3	82.2	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.4	90.3
10.9	72.2	76.7	81.2	82.1	83.0	83.9	84.8	85.7	86.6	87.5	88.4	89.3	90.2
11.0	72.1	76.6	81.1	82.0	82.9	83.8	84.7	85.6	86.5	87.4	88.3	89.2	90.1
11.1	72.0	76.5	81.0	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0
11.2	72.0	76.5	81.0	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0
11.3	71.9	76.4	80.9	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.1	89.0	89.9
11.4	71.9	76.3	80.8	81.7	82.6	83.5	84.4	85.3	86.2	87.1	88.0	88.9	89.8
11.5	71.8	76.3	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.9	88.8	89.7
11.6	71.7	76.2	80.7	81.6	82.5	83.4	84.3	85.2	86.1	87.0	87.9	88.7	89.6
11.7	71.7	76.1	80.6	81.5	82.4	83.3	84.2	85.1	86.0	86.9	87.8	88.7	89.6
11.8	71.6	76.1	80.5	81.4	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.6	89.5
11.9	71.5	76.0	80.5	81.4	82.3	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.4
12.0	71.5	75.9	80.4	81.3	82.2	83.1	84.0	84.9	85.8	86.6	87.5	88.4	89.3
12.1	71.4	75.9	80.3	81.2	82.1	83.0	83.9	84.8	85.7	86.6	87.5	88.4	89.2
12.2	71.3	75.8	80.3	81.1	82.0	82.9	83.8	84.7	85.6	86.5	87.4	88.3	89.2
12.3	71.3	75.7	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.3	88.2	89.1
12.4	71.2	75.7	80.1	81.0	81.9	82.8	83.7	84.6	85.4	86.3	87.2	88.1	89.0
12.5	71.2	75.6	80.0	80.9	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.0	88.9
12.6	71.1	75.5	80.0	80.9	81.7	82.6	83.5	84.4	85.3	86.2	87.1	88.0	88.8
12.7	71.0	75.5	79.9	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.9	88.8
12.8	71.0	75.4	79.8	80.7	81.6	82.5	83.4	84.3	85.1	86.0	86.9	87.8	88.7
12.9	70.9	75.3	79.8	80.6	81.5	82.4	83.3	84.2	85.1	86.0	86.8	87.7	88.6
13.0	70.8	75.3	79.7	80.6	81.5	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.5
13.1	70.8	75.2	79.6	80.5	81.4	82.3	83.2	84.0	84.9	85.8	86.7	87.6	88.5
13.2	70.7	75.1	79.5	80.4	81.3	82.2	83.1	84.0	84.8	85.7	86.6	87.5	88.4
13.3	70.6	75.1	79.5	80.4	81.2	82.1	83.0	83.9	84.8	85.7	86.5	87.4	88.3
13.4	70.6	75.0	79.4	80.3	81.2	82.1	82.9	83.8	84.7	85.6	86.5	87.3	88.2
13.5	70.5	74.9	79.3	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.3	88.1
13.6	70.5	74.9	79.3	80.1	81.0	81.9	82.8	83.7	84.5	85.4	86.3	87.2	88.1
13.7	70.4	74.8	79.2	80.1	81.0	81.8	82.7	83.6	84.5	85.4	86.2	87.1	88.0
13.8	70.3	74.7	79.1	80.0	80.9	81.8	82.6	83.5	84.4	85.3	86.2	87.0	87.9
13.9	70.3	74.7	79.1	79.9	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.8
14.0	70.2	74.6	79.0	79.9	80.7	81.6	82.5	83.4	84.3	85.1	86.0	86.9	87.8
14.7	69.8	74.1	78.5	79.4	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.2
15.0	69.6	74.0	78.3	79.2	80.0	80.9	81.8	82.6	83.5	84.4	85.3	86.1	87.0
16.0	69.0	73.3	77.6	78.5	79.4	80.2	81.1	81.9	82.8	83.7	84.5	85.4	86.2
16.8	68.5	72.8	77.1	78.0	78.8	79.7	80.5	81.4	82.2	83.1	83.9	84.8	85.7
17.0	68.4	72.7	77.0	77.8	78.7	79.5	80.4	81.2	82.1	82.9	83.8	84.7	85.5
18.0	67.8	72.1	76.3	77.2	78.0	78.9	79.7	80.5	81.4	82.2	83.1	83.9	84.8
18.9	67.3	71.5	75.7	76.6	77.4	78.3	79.1	79.9	80.8	81.6	82.5	83.3	84.1
19.0	67.3	71.5	75.7	76.5	77.4	78.2	79.0	79.9	80.7	81.6	82.4	83.2	84.1
20.0	66.7	70.9	75.0	75.9	76.7	77.5	78.4	79.2	80.0	80.9	81.7	82.5	83.4

(e) Minimum liquidation rates will of course have to vary up or down from those shown in the above illustrative tables, for differing rates of projected profit and for different percentages for progress payments.

(f) When a contract is subject to a limitation on General and Administrative (G&A) expenses eligible for progress payments because a contractor elected to use the special transition method provided in cost Accounting Standard 410, an adjusted alternate liquidation rate will be used. The adjusted alternate liquidation rate will be established by subtracting the estimated G&A costs not eligible for progress payments from total estimated contract costs. For example, if the price is $1,100,000, costs is $1,000,000 and unbilled G&A $47,600, the liquidation rate would be calculated as follows:

$$\frac{(1{,}000{,}000-47{,}600)}{1{,}100{,}000}\times 90\% = 77.92\%$$

Use 78.00%

30. Section 1–30.513 is amended to revise paragraph (b) to read as follows:

§ 1–30.513 Subcontracts.

* * * * *

(b) The policies and standards for "unusual" progress payments set forth in § 1–30.505, are equally applicable to situations where it is contemplated that contracts will provide for progress payments based on "unusual" progress payments made by a prime contractor to a subcontractor. In such cases, when the inclusion of such unusual progress payments on the subcontracts has been approved in the manner set forth in § 1–30.505, appropriate revision will be made in paragraph (j)(2) of the Progress Payment clause in § 1–30.510–1(a) so as to permit inclusion of the unusual progress payments on the subcontract as part of the base for progress payments on the prime contract. Such revisions are deemed not to be deviations, and do not require the clearance called for by § 1–30.517(b). Paragraph (a)(3) of the clause in § 1–30.510–1(a) applies only to the "contractor's" costs mentioned in paragraph (a)(1)(i) of the clause. Paragraph (a)(3) of the clause does not apply to the progress payments to subcontractors mentioned in paragraph (a)(1)(ii) of the clause. The same policies and standards apply to the same numbered paragraphs in the progress payment clause in § 1–30.510–1(b), except that paragraph (a)(3) of the clause in § 1–30.510–1(a) is numbered (a)(2) in the clause in § 1–30.510–1(b).

31. Section 1–30.513–1 is revised to read as follows:

§ 1–30.513–1 Subcontractor progress payments.

When progress payments have been made by a prime contractor to a subcontractor pursuant to the provisions of the applicable prime contract and subcontract, the progress payment to the prime contractor to reimburse him for such progress payment to the subcontractor shall include the full amount of his progress payment made to the subcontractor.

32. Section 1–30.513–2 is revised to read as follows:

§ 1–30.513–2 Adaptation of uniform clause for subcontracts.

(a) Contracting officers are not required to review or approve subcontracts merely because they provide for progress payments. However, they shall check and review subcontracts providing for progress

payments to the extent appropriate in the ordinary course of administration of the Progress Payment clause of prime contracts. The duty rests on the prime contractor to see to it that subcontracts providing for progress payments, to be included in the base for progress payments pursuant to the provisions of paragraph (j) of the clause in § 1–30.510–1(a), conform to the provisions of paragraph (j) of the clause in § 1–30.510–1(a). In adapting the clause in § 1–30.510–1(a) for use in subcontracts, to conform to paragraph (j) of the clause, the subcontract Progress Payment clause should have appropriate changes to reflect the position of the prime contractor as purchaser and of the subcontractor as vendor, and to indicate that the progress payments under the subcontract are being made and administered by the prime contractor. However, the title provision of the Progress Payment clause, the subcontract shall provide for the vesting of title directly in the Government, as set forth in paragraph (d) of the clause, and the subcontract will not substitute the prime contractor for the Government as the holder of title under that paragraph of the subcontract. In that title paragraph of the subcontract, reference to the prime contractor should, however, be substituted for the word "Government" in the parenthetical expression concerning drawings and technical data.

(b) In the subcontract counterpart (clause paragraph (g)) entitled "Reports and information—access to records", the references to "Contracting Officer" and "Government" should not be deleted, but may in each case be expanded so as to refer to the "Contracting Officer or the prime contractor," (paragraph (g)(1) of the clause) and to the "Government or the prime contractor" (paragraph (g)(2) of the clause).

(c) With regard to the subcontract counterpart of the "Special Provisions Regarding Default" (paragraph (h) of the clause), only the substance of the first twenty-six words of that paragraph (with reference to the prime contractor being substituted for "Government"), is required for conformity to the provisions of paragraph (j)(2) of the clause.

(d) The same policies and standards apply to the same numbered paragraphs in the Progress Payment clause provided in § 1–30.510–1(b).

33. Section 1–30.515 is revised to read as follows:

§ 1–30.515 Letter contracts.

When progress payments are to be made under letter contracts or similar contractual instruments (§ 1–30.503, § 1–30.503–2), incorporation of the appropriate clause in § 1–30.510–1 is required. See §§ 1–30.509–7, 1–30.511–2, and 1–30.511–3. Procedures for later events are outlined in paragraphs (a) and (b) below.

(a) When the superseding definitive contract provides for progress payments (§ 1–30.503, § 1–30.503–2), the letter contract costs, progress payments and unliquidated progress payments will be carried over to the definitive contract the same as if initially covered by the definitive contract instead of the letter contract. For the various percentages, see §§ 1–30.503–2, 1–30.511–2, 1–30.511–3, 1–30.511–4 and 1–30.512.

(b) If the letter contract is not superseded by a definitive contract providing for progress payments, for whatever reason, the unliquidated progress payments on the letter contract will be deducted from amounts otherwise payable to the contractor. If not so fully liquidated, the amount of unliquidated progress payments will be payable to the Government upon demand.

34. Section 1–30.519 is revised to read as follows:

§ 1–30.519 Contractor's request.

All invoices for progress payments on contracts containing the Progress Payment clauses set out in § 1–30.510, and on contracts containing any deviation from those clauses approved pursuant to § 1–30.517, will be supported by Standard Form 1443 (see § 1–30.529 and § 1–16.808) with any supporting information that may be reasonably required. The reverse side of the form contains instructions for use.

35. Section 1–30.520 is revised to read as follows:

§ 1–30.520 Audit.

For the making of progress payments, principal reliance will be placed on the adequacy of the contractor's accounting system and controls (§ 1–30.506) and on the reliability of the contractor's certificates. To conserve administrative effort, hold down expense, and promote prompt payment of proper progress billings, audit before the making of progress payments will be kept to the minimum necessary for the protection of the interest of the Government. Preaudit, that is, audit before the making of a progress payment, will be limited to those situations in which there is reason to question the reliability or accuracy of the contractor's certificate, or reason to believe that the contract will involve a loss. Where the adequacy and reliability of the contractor's accounting system and controls have been established in accordance with § 1–30.506, there shall be no requirement for preaudit of the first progress billing under new contracts. Postreview or postaudit will be made when considered desirable by the contracting officer to determine the validity of any progress payment made on the contractor's certifications.

§ 1–30.521–2 [Removed]

36. Section 1–30.521–2 is removed.

37. Section 1–30.522 is revised to read as follows:

§ 1–30.522 Adjustment—retroactive price reduction—refunds.

When a retroactive price reduction has been made effective, i.e., by supplemental agreement or by unilateral determinaton pursuant to the price redetermination provision of the contract, paragraph (b) of the clauses prescribed in § 1–30.510–1 requires adjustments so that the amount of unliquidated progress payments and the amounts paid or payable for supplies or services accepted will give effect to the price reduction. In this situation, the retroactive price reduction means that too much has been paid or billed for deliveries, and that from those delivery billings too much has been applied as a reduction of the unliquidated progress payment balance. The necessary adjustments would be; (a) Recomputation of total cash delivery payments on the basis of the reduced billing price resulting from the retroactive price reduction, and repayment by the contractor of the difference between the total recomputed payments and the total cash delivery payments that had been made, and (b) increase of the unliquidated progress payment balance by the excess of the total amounts previously applied to reduce the unliquidated progress payment balance over the amounts that would have been applied to reduce the unliquidated progress payment balance if the reduced delivery prices had been in effect from the date from which the redetermination is applicable. This same principle of upward adjustment of the unliquidated progress payment balance is also applicable in connection with interim refunds made by contractors pursuant to the provisions of incentive and price redetermination contracts, and in connection with voluntary refunds on such contracts.

38. Section 1–30.523 is revised to read as follows:

§ 1–30.523 Maximum unliquidated amount.

When the contract price is sufficient to cover all costs of complete performance, and liquidation of progress payments is effected by the ordinary method (§ 1–30.512–1), the amount of

unliquidated progress payments should automatically stay within the maximum limits stated in paragraph (a)(4) of the clause in § 1–30.510–1(a) and paragraph (a)(3) of the clause in § 1–30.510–1(b). For either method of liquidation § 1–30.512–2, or § 1–30.512–2 and § 1–30.512–3), whenever the rate or quality of performance is unsatisfactory, or the rate of rejections is unduly high, or there is excessive wastage or spoilage, or a loss to the contractor is indicated, careful examination should be made to determine whether or not the unliquidated progress payments exceed the maximum amounts permitted by paragraph (a)(4) of the clause in § 1–30.510–1(a) and paragraph (a)(3) of the clause in § 1–30.510–1(b). Also, when the alternate method of liquidation is used (§ 1–30.512–2, § 1–30.512–3), it may occur that actual costs and future costs of performance are higher than the estimated costs used to establish a liquidation rate. In such cases (paragraph (c)(6) of the clauses in § 1–30.510–1), appropriate increase of the liquidation percentage, with or without reduction of the rate of progress payments or suspension of progress payments (§ 1–30.524) will be necessary to adjust for any liquidation that may have occurred, to bring the amount of unliquidated progress payments within the limits of paragraph (a)(4) of the clause in § 1–30.510–1(a), and paragraph (a)(3) of the clause in § 1–30.510–1(b), and to assure the adequacy of future liquidations. As required, the services of the agency's contract audit organization should be utilized to the fullest extent available, together with the services of qualified cost analysis and engineering personnel. See § 1–30.519.

39. Section 1–30.524–1 is revised to read as follows:

§ 1–30.524–1 Failure to comply with contract.

Except for the purpose of correcting overpayments or obtaining amounts due from the contractor, action will not be taken pursuant to paragraph (c)(1) of the clauses provided in § 30.510–1 for failure to comply with a requirement of the contract, if such failure has resulted solely from causes beyond the control and without the fault or negligence of the contractor. For examples of such causes, see paragraph (c) of the Default clause in § 1–8.707. Compliance with the material requirements of the contract, within the meaning of paragraph (c)(1) includes compliance with all provisions of the Progress Payment clause.

40. Section 1–30.524–2 is revised to read as follows:

§ 1–30.524–2 Unsatisfactory financial condition.

If unsatisfactory financial condition, or failure to make progress, endangering contract performance, as described in paragraph (c)(2) of the clauses prescribed in § 1–30.510–1, is found to exist, arrangements reasonably assuring contract completion without loss to the Government will be required in connection with the making of further progress payments and the making of other payments so long as progress payments are unliquidated. Within the meaning of this paragraph (c)(2), performance of the contract includes full liquidation of progress payments. Further payments should be withheld so long as any progress payments remain unliquidated, only upon full consideration of all pertinent facts, and upon concluding that further payments will serve to increase the probable loss to the Government.

41. Section 1–30.524–3 is revised to read as follows:

§ 1–30.524–3 Excessive inventory.

When inventory allocated to the contract is found substantially to exceed reasonable requirements (paragraph (c)(3) of the clauses in § 1–30.510–1), the simplest form of adjustment to correct or avoid overpayment will be to eliminate the costs of such excess inventory from the costs shown in items 9 and 10 of the contractor's request referenced in § 1–30.529. If that is not regarded as sufficient in a particular case, or if the adjustment in items 9 and 10 of the request will not accomplish full correction, additional deductions, to the extent necessary for the correction, should be made to liquidate progress payments incident to billings for payments other than progress payments. Transfer of such excess inventory from the contract should also be required. The expression "reasonable requirements" includes a reasonable accumulation of inventory for future use to assure continuity of operations.

42. Section 1–30.524–4 is revised to read as follows:

§ 1–30.524–4 Delinquency in payment of costs of performance.

The contractor's delinquency in payment of costs of contract performance in the ordinary course of business (paragraph (c)(4) of the clauses in § 1–30.510–1) may be an indication of unsatisfactory financial condition or other circumstances endangering contract performance and involving probability of loss to the Government. If such delinquency is not connected with poor financial condition that is so unsatisfactory as to endanger contract performance or to involve reasonably foreseeable loss to the Government, further progress payments and other payments will not necessarily be denied to protect the unliquidated progress payments and minimize risks of additional losses, and payments may be continued at the contract rate, or in reduced amounts, in connection with appropriate arrangements to (a) cure the contractor's delinquencies in payment of the costs of contract performance, (b) avoid further delinquencies, and (c) reasonably assure completion of the contract without loss to the Government. (See also § 1–30.524–3.) The standards in paragraph (a) of the clauses in § 1–30.510–1 for the exclusion of pension contribution costs from progress payment computations will govern a determination of delinquency in the ordinary course of business with respect to these pension contribution costs, without regard to other provisions in § 1–30.524. Amounts claimed by subcontractors, suppliers and others, but disputed in good faith by the contractor, should not be considered delinquent until determined due by a court (or by arbitration if applicable). However, any such disputed amounts shall be excluded from costs of performance so long as they are disputed.

43. Section 1–30.524–5 is revised to read as follows:

§ 1–30.524–5 Fair value of undelivered work.

(a) In connection with determining the relation of the amount of unliquidated progress payments to the fair value of the work accomplished on the undelivered portion of the contract (see paragraph (c)(5) of the clauses prescribed in § 1–30.510–1), the principles stated in § 1–30.523 are applicable. In determining action, if any, to be taken, the contracting officer (using available audit, engineering, inspection, and cost analysis services) will give full consideration to the degree of completion of contract performance, the quality and amount of work performed on the undelivered portion of the contract, the amount of work remaining to be done and the estimated costs of completion of performance, and the amount remaining unpaid under the contract. If the contracting officer finds that the fair value of the work done under the undelivered portion of the contract, in relation to the contract price, is less than the unliquidated progress payments, his actions will be governed by the principles stated in §§ 1–30.524–2 and 1–30.524–4. This fair value could not exceed the contract price of undelivered work under the

contract, less the estimated total future costs of completion of the contract. When this fair value is found to be less than the amount of the unliquidated progress payments, all further payments on the contract will be controlled in such a manner as to hold the unliquidated progress payments within the fair value of the work done on the undelivered portion of the contract. (See also § 1–30.525–1.)

(b) If it is determined that the total costs incurred plus the estimated additional costs to complete the contract will exceed the contract price, the purchasing office will be promptly advised and all further progress payments will be adjusted using a loss ratio factor. Principles and practices discussed in § 1–30.524 will be followed in adjusting progress payments. For the purpose of computing the loss ratio factor, a revised contract price will be used consisting of the current contract price, (current contract price of fixed-price incentive contracts for this purpose is the current ceiling price) plus unpriced contractual actions, such as change orders and unpriced orders, to the extent obligated. The revised contract price divided by the sum of the total costs incurred to date (item 12a) plus the estimated additional costs to complete (item 12b) will be the loss ratio factor.

(c) When computing progress payments for loss contracts, the *Contractor's Request for Progress Payment* (Standard Form 1443) instructions will be modified as follows:

Item 5—Current contract price plus unpriced contractual actions, such as change orders and unpriced orders, to the extent obligated.

Item 11—The sum of Items 9 and 10 will be multiplied by the loss ratio factor and the result (recognized costs for progress payments) will be entered on Item 11.

Item 20a—Contract price of items delivered, invoiced and accepted to the date in heading of Section II. Note that average unit contract price is equal to the projected average unit cost multiplied by the loss ratio factor. Consequently, the maximum cost that may be recognized for the items delivered is equal to the contract price of the items delivered.

The contracting officer shall use, as required, audit and technical services and other pertinent data and management reports in determining the amount and costs of work completed and the estimated amount costs of uncompleted work under the contract. In the event that the figures submitted by the contractor in his request for progress payment are at variance with the determination of the estimated loss made by the contracting officer, the latter shall (1) adjust the figures in accordance with his own determination, (2) advise the contractor in writing, and (3) adjust all further progress payments in accordance with his calculations until the difference is resolved. The contracting officer will prepare a supplementary sheet which will be attached to the *Contractor's Request for Progress Payment* showing the revised contract price where there are outstanding unpriced actions to be considered, calculation of the loss ratio factor, and alternate amount to be used as Item 13. An example of such a supplementary sheet is as follows:

EXAMPLE: § 1–30.524–5 LOSS CONTRACTS

Section I—Contractor's request for progress payment:	
Item 5—Contract price	$950,000
Change orders and unpriced orders to extent obligated	50,000
Revised contract price	1,000,000
Section II:	
Item 12a—Total costs incurred to date	1,080,000
Item 12b—Estimated additional costs to complete	120,000
Total	1,200,000
Loss ratio factor $\frac{1,000,000}{1,200,000}$ = 83.3%	
Item 11—Total costs eligible for progress payments	900,000
Loss ratio factor (percent)	×83.3
Recognized costs for progress payments	749,700
Item 6a—Progress payment rate (percent)	×90.0
Item 13—Alternate amount to be used	674,730
Section III:	
*Item 20a—Contract price of items delivered	250,000
Item 20b—Recognized costs applicable to undelivered items ($749,700–$250,000)	499,700

*This amount will be the same as item 21a since the costs of such items will exceed the contract price.

44. Section 1–30.525–1 is revised to read as follows:

§ 1–30.525–1 Loss, theft, destruction, or damage.

Paragraph (e) of the clauses in § 1–30.510–1 is not intended to apply to normal spoilage. The risk of loss as to properlty affected by the Progress Payments clause is on the contractor, except to the extent that by some special provision of the contract (such as that relating to aircraft in the open) the Government shall have expressly assumed the risk of loss. Such express assumption of risk by the Government is not made in the Progress Payments clause, the Default clause or the Termination clause. Because of problems of administering the contract, especially those connected with property responsibility and inventory control, the risk of loss on property to which the Government holds title because of progress payments must be on the contractor to the same extent that it would be if the contractor held title to the property. This risk of loss carries with it the accompanying duty to repay to the Government the amount of unliquidated progress payments based on cost allocable to lost, stolen, or destroyed property or to the damaged portion of the property. If the Government has expressly assumed particular risks of loss, then, to the extent of such express assumption of risks by the Government, the contractor would not be obligated to repay to the Government the amount of unliquidated progress payments based on costs allocable to such lost, stolen, destroyed, or damaged property. (See, however, paragraphs (c)(5) and (c)(6) of the clauses prescribed in § 1–30.510–1 as to future payments on the contract after such loss, damage, theft, or destruction.)

45. Section 1–30.525–5 is amended to revise paragraph (b) to read as follows:

§ 1–30.525–5 Scrap—excess property.

* * * * *

(b) When: (1) The contractor has completed all work called for by the contract, and (2) such work has been delivered to and accepted by the Government, and (3) progress payments made under the contract have been fully liquidated, and (4) the contractor has fully performed all his obligations under the contract (including the making of any payments to which the Government may be entitled under the contract, and including compliance with any other provisions of the contract, such as the Termination clause, the Special Tooling clause, or the Government-furnished Property clause), any excess property remaining is to be regarded as having not been allocated or properly chargeable to the contract under sound and generally accepted accounting principles and practices, and thus outside the scope of the Progress Payments clause which would have

vested title in the Government. Accordingly, the contractor holds title to such excess property and may deal with it as he desires.

46. Section 1–30.529 is revised to read as follows:

§ 1–30.529 Standard Form 1443, Contractor's Request For Progress Payment.

Standard Form 1443 set forth in § 1–16.901–1443 and described in § 1–16.808 is provided to facilitate the submission of requests for progress payments. Various instructions contained in this Subpart 1–30.5 are referenced to specific paragraphs of this form.

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

Dated: December 4, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–34453 Filed 12–21–82; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

Privacy Act of 1974; Exempt Record System

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of the Department of Health and Human Services is amending its Privacy Act Regulations to exempt the system of records, "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG," from certain provisions of the Privacy Act. This exemption is authorized by subsection (k)(2) of the Privacy Act, which applies to investigative materials compiled for law enforcement purposes. The Office of Inspector General (OIG) is authorized to gather information for civil and administrative law enforcement purposes under Pub. L. 94–505, establishing the HHS Office of Inspector General, and section 1128A of the Social Security Act, authorizing civil money penalties for the filing of false claims in certain health care financing programs. In order to maintain the integrity of the OIG investigative process and to assure that the OIG will be able to obtain access to complete and accurate information, the Department is exempting this system, under subsection (k)(2), from the notification, access, correction and amendment provisions of the Privacy Act.

DATE: This amendment is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, Room 5267 North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201 or call (202) 472–3142.

SUPPLEMENTARY INFORMATION: On September 30, 1982, a notice of proposed rulemaking concerning the amendment to the Department's Privacy Act Regulations was published in the **Federal Register** (47 FR 43099) and invited public comments by November 1, 1982. No comments were received.

The Office of Inspector General is expanding its responsibilities in the area of civil and administrative investigations involving DHHS programs and operations. This requires the establishment of a records system to document the investigations which will be conducted by the OIG or other investigative agencies; to improve the tracking of reviews conducted because of allegations and complaints received by DHHS or other agencies concerning DHHS programs, or current or former HHS personnel; to improve the reporting of the results of civil and administrative investigations to other components of the Department for their use in operating and evaluating their programs; and to assist in civil and administrative proceedings, including proceedings under section 1128A of the Social Security Act (establishing civil monetary penalties in the Medicare, Medicaid, and Maternal and Child Health programs).

This system will contain sensitive investigative records, the release of which could impede on-going investigations, violate the privacy rights of individuals other than the subjects of the investigations, reveal the identities of confidential sources, or otherwise impair the ability of the Office of Inspector General to conduct civil and administrative investigations. For these reasons, the Department is exempting this system, under subsection (k)(2) of the Privacy Act, from the notification, access, correction and amendment provisions of the Privacy Act.

The exemption does not meet the standards set forth in Executive Order 12291 for classification as a major rule, and no regulatory analysis statement is required.

The Secretary certifies that the exemption will not have a significant impact on any substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354.

List of Subjects in 45 CFR Part 5b

Privacy.

PART 5b—PRIVACY ACT REGULATIONS

Accordingly, the Department's Privacy Act Regulations, Part 5b of 45 CFR Subtitle A is amended as follows:

1. In § 5b.11 by adding paragraph (b)(2)(ii)(D) as follows:

§ 5b.11 Exemptions.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(D) Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG.

(5 U.S.C. 552a)

Dated: December 3, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–34705 Filed 12–21–82; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 81–343; FCC 82–513]

Proceeding Concerning the Policies To Be Followed in the Authorization of Common Carrier Facilities To Meet Pacific Telecommunications Needs During the Period 1981–1995

AGENCY: Federal Communications Commission.

ACTION: Policy statement (Report and order).

SUMMARY: The Federal Communications Commission issues the policies it will follow in authorizing common carrier facilities that will be needed in the Pacific Ocean Region during the period 1982–1986. The incorporation of these policies into the authorization process will ensure that service will be provided to the public in the most efficient, expeditious manner possible.

DATE: Effective December 22, 1980.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William J. Sill, International Facilities Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632–4047.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: November 18, 1982.

Released: December 3, 1982.

In the matter of inquiry into the policies to be followed in the authorization of Common Carrier Facilities to Meet Pacific Telecommunications Needs During the Period 1981–1995; CC Docket No. 81–343.

1. On June 1, 1981, the Commission released a Notice of Inquiry, FCC 81–243, 46 FR 31286 (June 15, 1981), which initiated a comprehensive planning process in the Pacific Ocean Region for the 1981–1995 period. The U.S. international service carriers (USISCs),[1] Comsat, Hawaiian Telephone Company (HTC), the Department of Commerce (DOC) and the State of Hawaii (State) submitted comments. The Commission later released a Notice of Proposed Rulemaking in the above-captioned proceeding, Notice of Proposed Rulemaking, FCC 82–206, 47 FR 21868 (May 20, 1982) (hereinafter, Notice of Proposed Rulemaking or Notice), by which we issued for public comment our tentative conclusions about facilities planning and use in the Pacific Ocean Region (POR) from 1981–1986. On June 28, 1982, AT&T, ITT World Communications Inc. (ITT Worldcom), RCA Global Communications, Inc. (RCA Globcom), Comsat, HTC, DOC, the Department of Defense (DoD), Western Union International, Inc. (WUI), RCA American Communications, Inc. (RCA Americom) and State filed comments on the tentative conclusions contained in the NPRM.[2] On July 1, 1982 TRT Telecommunications Corporation (TRT) filed its comments.[3] Replies were filed by RCA Globcom, HTC, AT&T, WUI, Comsat, ITT Worldcom and the State of Hawaii. On July 29, 1982 the State of Hawaii revised the Appendix to its reply. On October 29, 1982 AT&T revised Appendix E to its comments. The comments and reply comments are summarized in Appendix I to this Report and Order.[3a] Here we adopt the policies which we shall apply in acting upon requests for authorization to construct and operate submarine cable and satellite communications facilities for Pacific service during 1982–1986.

I. Background

2. In response to the Notice of Inquiry, the USISCs formulated and submitted four alternative facilities plans to meet anticipated POR traffic demands during the 1981–1995 planning period, referred to as Plans I, IIA, IIB and III. These plans utilize a combination of existing and possible future facilities options. The various future facilities under consideration are the ANZCAN cable system (ANZCAN),[4] HAW–4 cable, HAW–5, Trans-Pacific-3 cable (TPC–3), TPC–4, INTELSAT V–A, VI, and VI–A.[5] The ANZCAN cable system will link Australia, New Zealand, Fiji and Norfolk Islands with Hawaii (ANZCAN South) and provide cable service between Hawaii and Canada (ANZCAN North). The proposed HAW–4 cable would be routed between the U.S. Mainland and Hawaii. WAW–5's route has not been determined. TPC–3 would be constructed between Hawaii and Japan while the TPC–4 cable would land in Hawaii and Guam. Intelsat satellites series V–A, VI and VI–A would be located in the Pacific Ocean Region.

3. Plan I proposed the construction of no new facilities during the planning period; it was submitted for analytical purposes rather than as a viable option. Plan IIA calls for U.S. carriers' use of ANZCAN cable system, the use of a primary path satellite, the introduction of a major path satellite in 1987, and the construction of HAW–4 and TPC–3 as digital optical fiber cables in 1988. Plan IIB varies from IIA in one respect; Plan IIB assumes use of the in-orbit spare satellite as an operational spare satellite between 1984–1987.[6] Plan III proposes construction and use of (a) ANZCAN, (b) an analog HAW–4 between Mainland U.S. and Hawaii in 1984, (C) an analog TPC–3 cable between Hawaii and Japan in 1986, (d) digital optical fiber HAW–5 and TPC–4 in 1991, with TPC–4 landing in Guam and Hawaii, (e) use of an in-orbit spare satellite as an operational spare satellite between 1984–1987, and (f) introduction of a major path satellite in 1987. Plans IIA and IIB contemplate U.S. carriers acquiring temporary and permanent interests in ANZCAN's circuits, while Plan III Proposes the acquisition of permanent interests.

4. In the Notice of Proposed Rulemaking the Commission decided that it would focus upon POR facilities planning for 1981–1986, and consider the 1987–95 period in a subsequent phase of the proceeding. The Commission reviewed the comments and evaluated the four facilities plans using demand flexibility, cost, service quality and technological risk as criteria. The Commission tentatively concluded:

(a) U.S. carriers' acquisition of permanent interests in ANZCAN South would serve U.S. interests. However, the Commission did not express a preference for the number of circuits to be acquired.

(b) U.S. carriers should be authorized to acquire temporary indefeasible right of user (IRU) interests in 734 ANZCAN North half circuits for international service and the IRCs should be authorized to acquire temporary IRU interests in 56 ANZCAN North whole circuits for domestic service.

(c) Utilization of Intelsat's proposed in-orbit operational spare satellite in the POR during the mid-1980's is desirable.

(d) Construction and use of analog HAW–4 and TPC–3 cables would not serve U.S. interests.

(e) A flexible master plan approach to development of a circuit distribution methodology is desirable. However, U.S. record carriers should be exempted from a specific circuit distribution methodology.

However, the Commission was unable to conclude that acquisition of temporary interests in 600 whole circuits in ANZCAN North for service between the U.S. Mainland and Hawaii would serve the United States' interests, as proposed in Plans IIA and IIB. In addition, the Commission requested AT&T, ITT Worldcom and HTC to submit reasons supporting permanent acquisition of ANZCAN North half circuits. The Commission also requested the parties to provide additional information on the availability of domestic satellite capacity between the U.S. Mainland and Hawaii.

5. The Pacific planning process is the first attempt by the Commission to analyze the U.S. carriers facilities requirements in the POR on a

[1] The USISCs are the United States entities which provide telecommunications service directly to the public. For purposes of this proceeding, the USISCs are composed of AT&T and the international record carriers: FTC Communications, Inc., ITT World Communications Inc., RCA Global Communications, Inc., TRT Telecommunications Corporation and Western Union International, Inc.

[2] On May 28, 1982 the Bureau granted AT&T's request for extension of time to file Comments and Replies in this proceeding; the deadlines for submission of comments and replies were changed to June 28, 1982 and July 28, 1982.

[3] TRT Telecommunications Corporation (TRT) filed its comments three days after the period for filing comments had passed. Since the acceptance of this pleading will not delay the proceeding and our analysis of the issues in the proceeding will be benefited by its acceptance, we shall accept the pleading.

[3a] Filed as part of the original document.

[4] The ANZCAN cable will be constructed and owned by telecommunications entities in Australia, Canada, France, the Federal Republic of Germany, New Zealand, the Independent State of Papua, New Guinea, the Philippines and the United Kingdom.

[5] Intelsat series IV–A and V are currently in use in other ocean regions and are proposed be relocated in the POR.

[6] Use of an in-orbit spare satellite as an operational spare satellite would not provide additional satellite capacity but would provide an additional independent satellite path. Satellite traffic would be limited to the capacity of a single spacecraft, so that if the primary satellite failed the operational spare satellite would be able to restore the traffic formerly carried on the primary satellite.

comprehensive basis. Since international communications is a cooperative venture involving foreign and domestic entities, development of United States policy entails some consideration of what would be mutually acceptable. To this end, the Commission has taken cognizance of the views of interested foreign entities.[7]

II. Discussion

6. The parties' comments and reply comments provide us with significant information which was not available for our consideration during the preparation of the Notice of Proposed Rulemaking. Careful review and analysis of this information has caused us to modify our earlier analysis and some of the tentative conclusions announced in the Notice of Proposed Rulemaking. Below we shall consider the impact of these additional comments and information on the following issues: (1) The use of the ANZCAN cable system by any U.S. carrier; (2) the types of interests and the number of circuits the USISCs should be authorized to acquire in ANZCAN North for international services; (3) the types of interests and number of circuits HTC should be authorized to acquire in ANZCAN North for international service; (4) the types of interests and number of circuits the U.S. carriers should be authorized to acquire in ANZCAN North to provide domestic service; and (5) the number of circuits the USISCs and HTC should be authorized to acquire in ANZCAN South for international service.

A. U.S. Carrier Involvement in ANZCAN

7. In the NPRM we tentatively concluded that U.S. carriers' use of the ANZCAN North and South would serve U.S. interests. The Department of Commerce, in its comments, disagreed. It contends that the ANZCAN cable system will be foreign owned, constructed and operated. According to DOC, U.S. participation in ANZCAN will benefit foreign countries rather than the U.S., and U.S. involvement in a foreign cable will set a bad precedent. DOC calculates that a half circuit IRU in ANZCAN would cost 5 times more than a half circuit in an optical fiber HAW–4, and believes that this is too high a price to pay for route diversity and redundancy. In contrast, ITT Worldcom points out that there is no U.S. cable available which could meet its customers' needs. HTC believes that DOC's comments reflect a parochial outlook and notes that an ITT subsidiary will be involved in the ANZCAN's construction. In addition, HTC challenges the validity of DOC's comparing the cost of ANZCAN IRUs to HAW–4 circuits. HTC believes that such a comparison is invalid since the ANZCAN temporary interests will have expired by the time HAW–4 becomes available.

8. Based upon the responses of the parties and the information before us, we conclude that U.S. carriers' acquisition of ANZCAN circuits will serve the public interest. Existing POR facilities in place in 1986 will not be able to meet forecasted demands for international services between the U.S. and Pacific points in that year. The ANZCAN cable system can be utilized by the carriers to fill the gap between circuit supply and expected demand, and will provide additional route diversity and redundancy. Further, utilization of ANZCAN North will obviate the necessity to build an analog HAW–4 which would require greater USISCs investment than ANZCAN North. We also note that international telecommunications increasingly involves the participation of many nations in a single system. We do not beleive that foreign ownership of a specific cable will in all instances militate against its use. Rather, the question to be answered in overseeing U.S. carriers' involvement in foreign-owned cable is whether this involvement would serve the public interest. In light of the scarcity of available circuits in the POR during the middle of the planning period, we conclude that the U.S. carriers' acquisition of ANZCAN circuits serves the public interest.

1. ANZCAN North—International Service, the USISCs' Circuit Requests

9. In the NPRM we tentatively concluded that U.S. carriers should be authorized to acquire temporary interests in 734 half circuits for international service.[8] We found that ANZCAN North usage, on a temporary basis, was less expensive than a comparable outlay for the analog HAW–4 cable system. In addition, we determined that in conjunction with ANZCAN South, ANZCAN North usage would bridge the circuit demand gap of the mid-1980's and permit the construction of an optical fiber rather than an analog HAW–4. In the NPRM we stated that the optical fiber cables are expected to be much cheaper on a unit cost basis than their analog counterparts. We affirm here out earlier finding that temporary interests in ANZCAN will serve the public interest.

10. After tentatively concluding that the carriers should be restricted to temporary interests in ANZCAN North, we invited the carriers to explain why they had proposed acquiring permanent as well as temporary interests. In their comments and replies, the USISCs contend that the acquisition of permanent interests is warranted by economic, planning flexibility and international comity considerations. Serveral carriers maintain that ANZCAN would be the most cost effective means of assuring service. ITT Worldcom claims ANZCAN use would cost less than utilization of Comstar/Telstar and would provide route diversity. AT&T and WUI state that the ANZCAN owners redesigned their cable system from 9 mHz to 14 mHz in order to accommodate the U.S. carriers' needs with the expectation that the carriers would attempt to secure Commission approval for their acqusition of permanent interests in ANZCAN North.[9] In their comments the carriers significantly lowered their circuit requests for international service from their earlier request of permanent interests in 300 ANZCAN North half circuits to 131 half circuits. The State of Hawaii, in contrast with the USISCs, contends that the MOU is a private matter and was entered into prior to Commission approval. Under the circumstances, the State of Hawaii states that frustration of the purpose of the MOU is a private, rather than international, concern. In addition, DOC concurs with the Commission's tentative conclusion and contends that the cost of permanent ANZCAN interests and the availability of a digital optical fiber HAW–4 in 1988 make the acquisition of permanent interests unnecessary.

11. Our analysis of the comments filed in response to the NPRM has led us to revise our tentative conclusion about USISCs' circuit acquisition and to permit the USISCs to acquire some permanent

[7] On September 22, 1982 the Chairman and representatives from three telecommunications entities which are involved in the ANZCAN cable project, Teleglobe Canada, the New Zealand Overseas Post Office and the Overseas Telecommunications Commission of Australia, participated in a teleconference during which these representatives expressed their views on U.S. carriers involvement in ANZCAN. A report summarizing the views expressed by the participants has been placed in C.C. Docket No. 81–343.

[8] These 734 half circuits are comprised of the USISCs' requested 539 half circuits and HTC's requested 195 half circuits.

[9] On October 1, 1981 the carriers and the ANZCAN owners signed a Memorandum of Understanding (MOU) in which the carriers pledged their best efforts to obtain Commission approval of their acquisition of temporary and permanent interests in ANZCAN. A copy of this memorandum was submitted along with AT&T's comments of June 28, 1982.

interests in ANZCAN North. We believe that a combination of permanent and temporary interests is warranted on the basis of cost, route diversity, and international comity. In the NPRM we found that the carriers' initial comprehensive ANZCAN North circuit requests would have cost $41.8 million (1981 dollars) (or $47.0 million 1984 dollars).[10] If the carriers' revised request for ANZCAN North were approved it would cost $26.6 million (1984 dollars). Thus, the carriers' revised circuit requests would cost $20.4 million less than their initial circuit requests. *See* Appendix II.[11] Therefore, the combination of permanent and temporary interests now proposed by the U.S. carriers in ANZCAN North increases the cost differential between ANZCAN North and the construction and use of an analog HAW–4, the only short term cable alternative. *See* NPRM Table 7.

12. Authorization of a combination of temporary and permanent circuits in ANZCAN North will increase route diversity, obviate the necessity of constructing an analog HAW–4 cable and promote the early introduction of optical fiber cables in the POR. The USISCs' temporary acquisition of interests in ANZCAN North would provide additional route diversity until 1988, when their temporary interests terminate. However, permanent interests in ANZCAN North circuits would continue to provide additional route diversity for the U.S. Mainland-Hawaii portion of international routes even after a digital optical fiber HAW–4 is constructed. Further, the U.S. carriers' use of ANZCAN North circuits would obviate any need to build an analog HAW–4, which would require greater USISCs' initial investment than ANZCAN North. In addition, the use of ANZCAN North to bridge circuit supply shortfall will permit the construction of a digital optical fiber HAW–4. Thus, authorizing a combination of temporary and permanent interests in ANZCAN North will increase route diversity both in the short and long term and encourage the early introduction of optical fiber cables into the POR.

13. We believe that in addition to the other considerations discussed above, international comity is a factor which should be taken into account.[12] It would be short sighted to view U.S. participation in this system without taking into account the effect our decision will have on relations with international telecommunications entities. Many of the ANZCAN owners, confronted with the expiration of the COMPAC North cable in 1983 and the COMPAC South in 1984, decided to participate in the construction of the ANZCAN cable to replace COMPAC North and South.[13] In 1981 the ANZCAN owners redesigned ANZCAN North's bandwidth from 9 mHz to 14 mHz specifically to accommodate the U.S. carriers' circuit requests. A failure to consider both the importance of the ANZCAN cable to its owners and the owners' reliance on the U.S. carriers' assurances in the MOU could well undermine the trust and co-operative spirit beneficial for international telecommunications planning projects.

14. Furthermore, this report and order is the culmination of the Commission's first comprehensive Pacific planning process. We note that the MOU between the ANZCAN owners and the U.S. carriers is the result of informal discussion which began long before this proceeding began. The Commission considers these circumstances unique, and expects future phases of this and other planning processes to provide the forum for facilities planning.

15. We conclude that a combination of permanent and temporary interests in ANZCAN North circuits would serve the public interest and is warranted by economic, route diversity and international comity considerations. The only question which remains to be answered is what number of permanent and temporary interests should be authorized in the public interest. On June 28, 1982 the carriers reduced both the number of circuits they requested and the exent of their initial investment in ANZCAN North. *See* paras. 10, 11, *supra*. In addition to reducing their circuit requirements, AT&T plans to utilize circuit multiplication technology on its MTS circuits to maximize their capacity. We have evaluated forecasted demand, circuit requests and the manner in which the proposed circuits would be utilized, and conclude that the record supports, and the public interest will be served by USISCs' acquisition of temporary IRU interests in 386 half circuits in ANZCAN North and permanent ownership interests in 131 half circuits in ANZCAN North for international service. *See,* Appendix III.

2. ANZCAN North—International Service, HTC's Circuit Requests

16. In the NPRM the Commission tentatively concluded that authorizing HTC to acquire temporary interests in 195 ANZCAN North half circuits and ITT Worldcom to acquire a temporary interest in one half circuit for international service would serve U.S. interests. In its comments on the NPRM, HTC revised its earlier request and notified the Commission that it wished instead to acquire permanent interest in 120 half circuits to serve Canada and permanent interests in 35 half circuits for use to Europe. ITT Worldcom dropped its request for permanent interest in 1 half circuit for international use. Therefore, we shall consider here whether HTC's acquisition of permanent interests in 155 half circuits to serve Canada and Europe would serve the public interest.

17. In its comments HTC contends that 120 ANZCAN half circuits directly to Canada would prove more cost effective than routing via the U.S. and then transiting to Canada. HTC contends that if it were restricted to acquiring temporary interests it would have to relinquish them when HAW–4 becomes operational. HTC opposes use of HAW–4 because unlike ANZCAN North, HAW–4 is not a direct route and would require the additional cost and decreased reliability inherent in transiting.[14] HTC states that it plans to use Intelsat to cross the Atlantic and therefore needs to acquire permanent interests in 35 ANZCAN North half circuits, rather than satellite circuits, if it is to avoid a "double hop" situation.[15]

[10] The conversion from 1981 to 1984 dollars was made based upon use of a constant discount rate of 4% as was used in Appendix E of the AT&T submission of June 28, 1982. This discount rate was agreed upon by the carriers as representing the "real" impact of inflation after accounting for changes in both costs and revenues.

[11] The facility investment cost for acquisition of ANZCAN North circuits found to be in the public interest in this proceeding is approximately $22.5 million (1984 dollars). *See* Appendix II.

[12] As we stated in Overseas Communication, 67 FCC 2d 359, 417–418 (Report, Order and Third Statement of Policy Guidelines) (1977), that while international comity is a significant factor in the consideration of facility plans and programs, it must be balanced against our public interest mandate. Our actions here are consonant with *Overseas Communication* since we have examined the U.S. carriers proposals and, after modification, found that they would serve the public interest.

[13] The COMPAC cable system is the only cable system that connects Canada, Hawaii, the Fiji Islands, New Zealand and Australia. ANZCAN North will follow the same route as COMPAC North. ANZCAN South's route differs from COMPAC South only in that it will land on Norfolk Island.

[14] The proposed HAW–4 cable will be routed between Hawaii and the U.S. Mainland. To provide Canadian service via HAW–4 , HTC would have to employ a terrestrial system from the U.S. Mainland to Canada

[15] A double hop occurs when traffic is transferred from one satellite to another. Double hop configurations exceed the 400 milli-second (ms) one way propagation time limitation which CCITT considers desirable. International Telecommunication Union, International Telegraph and Telephone Consultative Committee, Yellow Book, Volume III, General Characteristics of International Telephone Connections and Circuits, Recommendation G. 114(b), pp 70–2, VIIth Plenary Assembly, Geneva (November 10–12, 1980).

The State of Hawaii and DOC object to HTC's proposals, and state that the record does not support the requested circuitry. The State of Hawaii cautions that HTC's rates are already high and that the authorization of these circuits could exacerbate the situation. DOC views HTC's routing to Europe as an attempt to forsake use of U.S. telecommunications systems. DOC believes that U.S. facilities could be more cost effective and better serve U.S. interests without any loss of redundancy or media diversity.

18. Our analysis of the comments filed in response to the NPRM has lead us to revise our tentative conclusion concerning HTC's acquisition of temporary interests in 195 half circuits in ANZCAN North for international service. We believe that the public interest would be served by HTC acquiring permanent ownership interests in 60 half circuits for Canadian service and denial of its requests for another 60 half circuits for Canadian service and for permanent ownership interests in 35 half circuits for European service. ANZCAN North is the only cable with available capacity which would give HTC direct service to Canada. Direct routing is desirable since it improves service reliability and minimizes the number of transmission systems and switching terminals which must be traversed. Acquisition of permanent rather than temporary interest permits the continued utilization of the only direct cable route to Canada.

19. While we believe that acquisition of permanent interests is warranted, our examination of HTC's circuit requests reveals that HTC is not proposing to efficiently utilize the circuits it requests. We note that HTC and AT&T's joint request for 149 whole circuits in ANZCAN North for domestic MTS service will employ circuit multiplication equipment and thereby double their circuits' capacity. However, HTC's request for 120 half circuits in ANZCAN North for Canadian service fails to take advantage of the cost savings inherent in the use of circuit multiplication technology.[16] By utilizing circuit multiplication equipment HTC would need only half of its requested 120 half circuits. Therefore, we find the public interest shall be served by HTC's acquisition of permanent interests in 60 half circuits in ANZCAN North for Canadian service and require HTC to utilize circuit multiplication equipment.[17]

20. HTC's request for 35 half circuits in ANZCAN North for service to Europe would not serve the public interest. HTC has submitted only a skeletal description of its proposal for use of ANZCAN North for this service. HTC has failed to demonstrate that using ANZCAN North to Canada, transiting Canada to Teleglobe Canada's earth station, and then using the Intelsat satellite system to Europe would be cost effective.[18] HTC states that since it will utilize the Intelsat satellite system to cross the Atlantic it must use ANZCAN North in order to avoid a "double hop" situation. However, if HTC utilized the TAT–7 cable rather than the Intelsat satellite system to cross the Atlantic, HTC could utilized domestic satellites between Hawaii and the U.S. Mainland without a double hop. This routing is more direct, involves a much shorter land transit [19] and would result in the same degree of route diversity and redundancy as HTC's proposal. Further, it would appear more reasonable for HTC to provide European service via domestic satellite(s) and the TAT–7 cable.[20]

3. ANZCAN North—Domestic Service, U.S. Carriers' Circuit Requests

21. In the NPRM the Commission tentatively concluded that the IRCs' acquisition of temporary interests in 56 ANZCAN North whole circuits would serve U.S. interests. However, we refrained from tentatively concluding whether AT&T and BTC should be authorized to jointly acquire temporary interests in 600 ANZCAN North whole circuits. We noted that domestic satellite systems might contain sufficient capacity to accommodate the U.S. carriers' needs and requested the parties to provide information on domestic satellite circuit availability.

22. Along with their comments, AT&T, HTC and the IRCs submitted revised circuit requests. AT&T and HTC reduced their joint request for temporary interests in ANZCAN North whole circuits from 600 to 149 circuits, and the IRCs lowered their circuit requests from 56 to 47 whole circuits. AT&T reports that its revised circuit request reflects decreased demand resulting from prevailing economic conditions and recent rate increases. WUI and ITT Worldcom consider IRUs the only affordable basis for acquiring access to AT&T's Comstar/Telstar domestic satellite system and both express concern over the continued availability of IRUs on the Comstar/Telstar system. ITT Worldcom reports that its search for additional satellite capacity has been fruitless. AT&T notes that domestic satellite carriers have failed substantively to respond to the Commission's request for information on circuit availability.[21] However, AT&T and WUI contend that they did not propose to use ANZCAN North whole circuits because of a shortage of domestic satellite capacity. Rather, they state they selected ANZCAN North whole circuits because utilizing these circuits would increase route diversity, service reliability, media diversity, national security and their ability to meet customer preferences. AT&T states if their satellite system were disrupted by equipment failure or a catastrophic event the ANZCAN North whole circuits would provide additional continuity of service. AT&T calculates that, without using ANZCAN North whole circuits, cable usage would peak in 1983 when cables carried 16% of the U.S. Mainland-Hawaii MTS traffic. If AT&T and HTC jointly acquire 149 whole circuits in ANZCAN North, cable usage would peak in 1984 when cable traffic would account for 22% of all MTS traffic between the U.S. Mainland and Hawaii.

23. DOC and the State of Hawaii contend that these circuits are unneccessary. Both DOC and the State of Hawaii agree with the Commission's finding in the NPRM that sufficient domestic satellite capacity could be made available to meet demand. In addition, DOC contends that domestic satellite circuits could be less expensive than ANZCAN North circuits and that service reliability and route diversity could be increased in a less costly way by utilization of the three existing U.S. Mainland-Hawaii cable systems and the Intelsat satellite system. The State of Hawaii notes that RCA Americom has already indicated that it would have a minimum of 200–300 circuits available.

[16] See *Overseas Communication, supra* note 10, at 404.

[17] HTC is not authorized to directly serve Canada. Therefore, HTC must file for and be granted § 214 authority in order to directly serve Canada.

[18] We note that HTC's proposed extensive transiting proposal is inconsistent with its objections to transiting the comparatively short distance over the U.S. and Canadian borders to provide Canadian service.

[19] HTC could use a domestic satellite from Hawaii to an earth station in Pennsylvania and use a terrestrial system to transit from the earth station to the TAT–7 cable head in Tuckerton, N.J.

[20] If HTC requests authority to serve Europe via domestic satellite(s) and TAT–7, the Commission could order AT&T to make available interests in TAT–7 circuits to HTC. *See* AT&T et al. (TAT–7), 73 FCC 2d 248, 261 (1979).

[21] On December 23, 1981, the Common Carrier Bureau sent letters to RCA American Communications, Inc. (RCA Americom), American Satellite Company, Southern Pacific Communications Company, Alascom, Inc., Hughes Communications Company, GTE Satellite Corporation, and the Western Union Telegraph Company. Although all the domestic satellite carriers responded, RCA Americom was the only domestic satellite carrier which provided specific circuit availabilty information.

The State of Hawaii suggests the Commission should again request domestic satellite carriers to provide information on circuit availability and price.

24. We conclude that AT&T's, HTC's and the IRCs' requests to acquire temporary interest in ANZCAN North whole circuits for domestic service would serve the public interest. As we stated in the NPRM, service reliability and media diversity are important considerations in facilities planning.[22] Over 80% of the MTS traffic between Hawaii and the U.S. Mainland is transmitted via two satellites. A satellite system's failure could result in a serious disruption of service. The three existing cable systems will be saturated by 1983. Therefore, ANZCAN North is the only cable available from 1983 to 1988 that AT&T, HTC and the IRCs could use to cushion the impact of a satellite system's failure. We note that these parties are proposing acquisition of temporary rather than permanent interests for domestic service. This will reduce initial costs and maximize the ability of AT&T, HTC and the IRCs to utilize optical fiber cables when they are introduced. In addition, we note that AT&T and HTC will utilize circuit multiplication technology to minimize their bearer circuit requirement.

25. Finally, while there is apparently adequate domestic satellite capacity to accommodate these service requirements, the domestic satellite carriers have not actively sought this business and there are good public interest reasons for utilizing ANZCAN North. AT&T, HTC and IRC's acquisition of temporary interests in ANZCAN North whole circuits would increase service reliability and media diversity, while minimizing both the initial cost and length of involvement in this analog cable. Therefore, we conclude that AT&T, HTC and the IRC's acquisition of temporary interests in ANZCAN North whole circuits for domestic use would serve the public interest. *See*, Appendix III.

4. ANZCAN South—International Service, U.S. Carriers' Circuit Requests

26. In the Notice of Proposed Rulemaking the Commission tentatively concluded that U.S. carriers' acquisition of permanent ownership interests in ANZCAN South would serve U.S. interests but did not tentatively decide the number of half circuits that should be acquired. On June 28, 1982 AT&T, the IRCs and HTC submitted revised circuit requests which reduced their proposed ANZCAN South involvement from 648 half circuits to 546 half circuits.[23]

27. In their Comments AT&T, the IRCs and HTC concurred with the Commission's tentative conclusion. The Department of Commerce favors minimizing use of ANZCAN South due to its cost and the possible introduction of additional cable facilities. DOC concurs with the Commission's decision in the NPRM not to express a tentative preference for the number of circuits the carriers should acquire since DOC believes that demand growth in the region will decrease. The State of Hawaii contends that the record fails to support the need for any additional cable facilities in the Pacific Ocean Region.

28. We conclude that the public interest would be served by AT&T, the IRCs and HTC acquiring permanent ownership interests in 518 half circuits in ANZCAN South. The U.S. carriers' facility investment costs for these circuits is approximately $48.4 million (1984 dollars). *See* Appendix II. Projected demand figures indicate that by 1986 existing POR facilities will be unable to provide sufficient capacity to satisfy forecasted demands for international service between U.S. and Pacific points. During the mid-1980's ANZCAN South circuits would provide sufficient additional capacity to meet predicted demand for U.S. international services, at adequate levels of service quality in the POR. In addition, the acquisition of long term interests in ANZCAN South is required to provide media diversity to Southern Pacific points between 1991–1995 since after Seacom–2's retirement in 1991 ANZCAN South will be the only direct cable route projected to have available capacity from 1984 to 1995 between the U.S. and those points.

29. While the U.S. carriers have requested 546 half circuits, we conclude that only 518 half circuits should be acquired. This circuit reduction can be accomplished without any decrease in requested capacity. While HTC had requested permanent interest in 60 half circuits to serve Australia, it did not propose to utilize circuit multiplication technology. If HTC utilizes circuit multiplication equipment, 32 half circuits would carry the same traffic 60 unenhanced half circuits would carry. HTC's utilization of circuit multiplication technology would maximize the efficient use of ANZCAN South circuits and minimize its investment. For the reasons discussed above, we conclude that acquisition of permanent interest in 518 half circuits in ANZCAN South by AT&T, HTC and the IRCs serves the public interest.[24] *See* Appendix III.

B. Other Issues

30. Several other issues arose in this proceeding: (a) A master plan; (b) IRC's exemption from specific loading criteria; (c) application of the IRC's exemption to HTC; (d) adoption of a standardized costing methodology; (e) the adequacy of the record; (f) the use of an in-orbit operational spare satellite; and (g) the construction and use of analog HAW–4 and TPC–3 cables.[25] We shall discuss these issues below.

1. The Master Plan

31. Subsequent to the NOI, AT&T recommended formulation of a Master Plan approach to circuit activation. Further, both AT&T and Comsat proposed the incorporation of the principle of balanced loading into the Master Plan.[26]

32. In the NPRM the Commission tentatively concluded that a Master Plan approach to development of circuit distribution methodology is acceptable if it: (a) Utilizes balanced loading to optimize service quality, (b) gives due consideration to the costs to the ratepayers, and (c) contains a mechanism to deal with forecasted traffic level deviations.

33. In response to the Commission's tentative conclusion, in their comments the U.S. carriers and Comsat generally supported the concept of a Master Plan and submitted their circuit activation plans. ITT Worldcom submitted the requested information but questioned the necessity for IRCs to do so in light of

[22] In its comments, DoD states that service reliability and media diversity are extremely important due to their impact on U.S. national security.

[23] AT&T requested permanent interests in 360 half circuits, the IRCs 108, and HTC 78.

[24] AT&T will be authorized to acquire 360 half circuits, the IRCs 108 and HTC 50 half circuits.

[25] In addition, the IRCs registered their concern over continued access to domestic satellites, the State of Hawaii complained about HTC's rates and suggested that cable and satellite rates be unbundled, and ITT Worldcom requested an affirmation of the Commission's 1966 *Authorized User* decision. Authorized Entities and Users, 4 FCC 2d 421, 431 (1966). A facilities planning process is not the appropriate forum to discuss or decide the issues of continued access to domestic satellites and rate structures. Furthermore, subsequent to ITT Worldcom's request for an affirmation of the 1966 *Authorized User* decision, the Commission modified its earlier decision. Authorized User Modification, FCC 82–357,—— FCC 2d——, released August 19, 1982. To the extent this Report and Order is related to the *Authorized User Modification* decision, it is consistent with our decision there.

[26] The principle of balanced loading is considered by many to minimize the period of time over which there is an imbalance of traffic among the available facilities on a given route, and to minimize the percentage of lost circuits in the event of a facilities failure between two geographical points.

the Commission's tentative conclusion to exempt the IRCs from any particular loading criteria. In its comments, DOC suggests that a Master Plan not be adopted until criteria have been fully aired and adopted. DOC supports a media loading ratio of 65/35 which would be based on relative cost effectiveness of either cable or satellite systems.

34. Comsat, HTC and AT&T proposed various mechanisms to deal with deviation of forecasted traffic levels in the context of the Master Plan for circuit activation. Comsat and AT&T propose similar shortfall/longfall approaches to deal with traffic levels falling short of projected levels (shortfall) and traffic levels exceeding projected levels (longfall). The shortfall/longfall approach distributes a shortfall or a longfall in projected traffic levels over facilities in proportion to the originally planned growth for facilities in each year. Comsat's and AT&T's greatest area of disagreement concerns the circumstances under which the Master Plan would require modification. Rather than proposing an approach similar to Comsat's and AT&T's, HTC proposes the Commission authorize a carrier's Master Loading Plan subject to a total cable or satellite traffic deviation of ±20%. Comsat states that HTC's request for a 20% variation in circuit activation is too broad. In addition, Comsat requests the Commission to require U.S. carriers to file monthly status reports so that actual circuit activation can be monitored.

35. A Master Plan is a useful means of arraying projected circuit requirements. We requested the U.S. carriers to submit their circuit distribution plans for incorporation into a Master Plan to clarify their proposals and detail the method in which their requested circuits would be utilized. Without the IRC's forecasted circuit distributions the Master Plan would have fallen short of being comprehensive. The information contained in the Master Plan aided the Commission in conducting its analysis of the merits of the proposed facilities requests.

36. This is the first facilities planning proposal we have had an opportunity to review since we announced in *Authorized User Modification*, FCC 82–357,—— FCC 2d ——, released August 19, 1982, our intention to remove ourselves from the decision as to the activation of cable and satellite circuits. However, as we noted in that decision, the lack of effective competition between cable and satellite mediums prevents us from relying totally upon market forces. Thus, we stated that while we would generally rely upon the carriers to make circuit activation decisions, we would be required to monitor those decisions to assure that both mediums are reasonably used.

37. Consistent with *Authorized User Modification*, the carriers in this proceeding generated their own proposed circuit activation plans based upon the principle of balanced loading. We believe that the Commission's authorization of a specific master plan is undesirable since it would frustrate our decision to rely upon the carriers and competitive forces to efficiently activate circuits. After reviewing the carrier's circuit activation plans we believe those plans appear to constitute a reasonable Master Plan. Furthermore, we believe that AT&T's shortfall/longfall approach is a reasonable mechanism for dealing with deviations from projected traffic levels. In addition, in this proceeding AT&T's flexible approach appears preferable to using the specific allowable percentage of deviation proposed by HTC, since deviations in forecasted traffic levels are by their nature unexpected and can occur for a myriad of reasons. We shall not, at this time, express an opinion as to what set of circumstances we believe would necessitate the revision of the Master Plan. We expect the U.S. carriers to use the Master Plan as a guideline for circuit activation. As we stated in *Authorized User Modification*, we shall continue to monitor the U.S. carriers' circuit activation to assure that both cable and satellite facilities are reasonably used.[27] For the reasons discussed above, we find both the Master Plan for circuit activations from 1982–1986 and the use of a shortfall/longfall approach to traffic deviation during that period of time to be reasonable.

2. IRCs' Exemption From Specific Loading Methodology

38. The Commission tentatively concluded in the NPRM that the IRCs should be exempt from any particular loading criteria so they can adequately respond to their customers' preferences for cable or satellite circuits. In reaching this conclusion, we noted that the IRCs' circuit requests are small enough relative to the total number of circuits in use that if exempted from balanced loading IRCs' circuit distribution would be unlikely to deprive the ratepayers of the benefits of a balanced loading.

39. The IRCs enthusiastically supported our tentative conclusion. WUI and ITT Worldcom assured the Commission that, if exempted, they would not abandon satellites for cable. They maintain that good management policy dictates the relatively even use of both mediums. Both Comsat and the State of Hawaii expressed their concerns that the IRCs would migrate to cable at the expense of satellites if the IRCs were exempted. Further, Comsat contended that the IRCs' bearer and MTS circuits should be subject to balanced loading. Comsat believes that the IRCs would have sufficient flexibility to meet customer preferences if corcuits for leased channel record services were not subject to a strict circuit activation schedule.

40. We conclude that exempting IRCs from any particular loading criteria would serve the public interest. In the NPRM we tentatively concluded that IRCs should be exempted from specific circuit distribution methodology because of the existence of customer preferences for cable and satellite circuits. In order to adequately respond to individual private line customer demands the IRCs require flexibility in choosing facilities. The degree of flexibility they require cannot be attained by restricting them to a particular loading criteria. We disagree with Comsat's suggestion that the IRCs' leased circuits and bearer circuits should be treated differently because the former is subject to customer preferences while the latter is not. In the NPRM we stated that due to the relatively small number of circuits the IRCs required, exempting *all* their circuits was unlikely to harm U.S. ratepayers. If all the IRCs' circuits can be exempted without any adverse affect to the U.S. ratepayer, affording the IRCs' leased circuits and bearer circuits different treatment would not serve any purpose. Further, in the North Atlantic planning process we exempted the IRCs' total requested circuits so that IRCs could reconfigure its circuits to make cable or satellite circuits available to honor customer requests. *Future Licensing of Overseas Communications Facilities*, 73 FCC 2d 326, 348–349 (1979). Finally, we believe that the IRCs' need to be responsive to their customers' preferences will militate against a mass migration from either cable or satellite usage. However, we shall monitor the IRCs' use of facilities. *See* para. 37, *supra*. For the reasons discussed above we conclude that the IRCs shall be exempt from a specific circuit

[27] In *Authorized User Modification* the Commission found it necessary to continue to monitor the U.S. carriers' use of facilities to assure that both cable and satellite facilities are reasonably used. FCC 82–357 para. 85. To aid our monitoring of circuit activations we will condition § 214 authorizations on the carriers' submission of monthly status reports for the POR.

distribution in the Pacific Ocean Region.[28]

3. Application of IRC's Exemption to HTC.

41. In its comments HTC requests that the Commission extend the proposed IRC exemption from a specific loading methodology to encompass HTC's private line circuits. HTC contends that like the IRCs, its private line customers express media preferences and its private line circuits are small relative to its total circuit requirements. Comsat states that HTC should be accorded the same degree of flexibility as the IRCs in accommodating private line circuits.

42. We believe that exempting HTC's private line circuits would serve the public interest. HTC's and the IRCs' private line circuits are similar in terms of customer preference and small number relative to their respective total circuit requirements. HTC's exemption will apply only to its private line circuits, since unlike the IRCs, HTC's total circuits are numerous enough to distort the balance of use of facilities. For the reasons discussed above, we conclude that exempting HTC's private line circuits from a specific loading methodology would serve the public interest.

4. Adoption of a Standardized Cost Methodology

43. In the NPRM we discussed various costing methodologies and requested that the parties comment on them. At that point the parties had submitted four different methods for calculating the cost of the various plans; AT&T's investment method, AT&T's use method, Comsat's Present Worth of Expenditures (PWE), and the State of Hawaii's revenue requirements approach.

44. While the concept of a standardized costing methodology appealed to many, the parties were unable to agree on any one specific methodology. Several parties felt that Hawaii's revenue requirements approach called for too much speculation and effort. AT&T in its reply noted that no consensus had arisen but contended that it was not necessary to choose a specific methodology since the various costing methods tended to yield similar results.

45. We shall not adopt a standard costing methodology here. We note that utilizing the three methods suggested by AT&T and Comsat[29] yield similar relative costs for the plans; Plan III is the most expensive followed by Plan IIA and IIB.[30] Rather than adopting a specific cost methodology, we are utilizing the investment cost outlay costing approach, as described in the Table 7 of the NPRM, to arrive at the cost figures provided in Appendix II. Therefore, it is unnecessary to adopt a standard methodology at this time.

5. The Adequacy of the Record

46. In their comments both the State of Hawaii and DOC contend that the record is inadequate to support the acquisition of additional circuits. Both parties suggest that the Commission delay the Report and Order until a more complete record has been established. Both the State of Hawaii and the Department of Commerce are critical of the number of plans generated. The State of Hawaii contends that the international facilities planning process might be illegal since Hawaii is a domestic rather than international point. Hawaii suggests that the Commission should either sever the domestic matters or broaden the scope of the proceeding to include all domestic common carriers. The State of Hawaii also criticizes the Commission for failing to consider whether existing and future facilities are being efficiently utilized. The State of Hawaii contends that before the Commission authorizes additional circuits the Commission should require USISCs to demonstrate that they have efficiently subdivided their bearer circuits and fully utilized time division multiplex (TDM) equipment on their existing bearer circuits. In addition, Hawaii contends that the U.S. carriers failed to show that the ANZCAN owners decision to reduce ANZCAN North from 1840 3KHz to 1380 4KHz is cost effective. The DOC suggests an alternative facilities planning process which is ongoing and dynamic. In addition, its alternative process would formulate specific guidelines.

47. The U.S. carriers disagree with DOC's and the State of Hawaii's characterization of the record as incomplete. AT&T reminds the State of Hawaii that the Commission's request for information from domestic satellite common carriers went largely unanswered. AT&T states that Hawaii is a hub for international and domestic service and therefore both international and domestic facilities should be considered. According to AT&T, bifurcating the proceeding would deny the U.S. ratepayer the economies of scale inherent in the joint use of facilities. AT&T states that the reconfiguration of ANZCAN North from 3KHz to 4KHz will increase the cost on a per-circuit basis but concludes that the corresponding reduction in its U.S.-Hawaiian circuit needs and the elimination of 3KHz channelizing equipment will result in a lower overall USISCs investment. WUI believes that DOC's and Hawaii's objections to the adequacy of the record consist largely of unsubstantiated assertions.

48. The record is adequate. We believe that the Pacific Ocean Region planning process has been a dynamic and ongoing one, but we also recognize that planning must become final so construction and operation of facilities can begin. This proceeding was initiated on May 15, 1981 when the Commission released the Notice of Inquiry. Since that time we have held public meetings, requested domestic satellite common carriers to submit information, issued an NPRM, and extended the time for responding to the NPRM so that both the parties and the public would have an opportunity to comment. Further, in the NPRM we have explicitly stated various criteria that we would use in evaluating the plans.

49. In addition, we have examined both existing and future facilities for efficient use. The latest monthly circuit reports[31] indicate that out of 333 circuits used by HTC and the IRCs to provide service between Hawaii-U.S. Mainland, 316 are used for alternative voice and data services (AVD). Therefore, the State of Hawaii is concerned with only 17 bearer circuits (about 5%). Thus, the number of circuits with which Hawaii is concerned is not significant. In addition, the monthly reports indicate that carriers are deriving between 42–90 subchannel circuits per voice circuit between Hawaii and the U.S. Mainland. This appears to reflect use of TDM equipment by the IRCs and HTC on this route. We would expect that competition will continue to promote the maximization of subdivision equipment use. Further, our analysis of the carriers' requested circuits revealed that HTC could use fewer circuits without a decrease in capacity if it employed circuit multiplication equipment. Accordingly, the number of circuits authorized to HTC was substantially

[28] Several IRCs urge this policy to be extended to the TRANSPAC–2 cable. This facilities planning process is not the appropriate forum for such a request.

[29] No one, including Hawaii, calculated what the various plans would cost if the revenue requirements approach were utilized.

[30] Plan IIB is the least expensive plan unless the "use" costing method is utilized. Under the use method, Plan IIB is only slightly more costly than IIA.

[31] HTC, RCA Globcom and WUI's August 1982 monthly circuit reports were utilized. ITT Worldcom's June 1982 circuit report was used.

reduced from its initial request. We also examined the cost effectiveness of reconfiguring the ANZCAN North cable. While changing the ANZCAN North cable from a 3KHz to a 4KHz circuit increased per circuit costs, the increase was more than offset by the fact that the carriers would need fewer 4KHz circuits.

50. Finally, we note that bifurcating this proceeding would require the planning and perhaps construction of separate facilities for domestic and international service, which would result in needless delay and expense to the U.S. ratepayer. For the reasons discussed above, we conclude that the record as a whole is complete.[32]

6. In-Orbit Operational Spare Satellite, Analog HAW–4 and TPC–3 Cables

51. In the NPRM the Commission tentatively concluded that use of Intelsat's proposed in-orbit operational spare satellite in the POR during the mid-1980's was desirable but tentatively concluded that construction and use of analog HAW–4 and TPC–3 cables would not serve U.S. interests. Our tentative conclusions did not generate significant controversy. The U.S. carriers supported these tentative conclusions. Utilization of Intelsat's in-orbit spare satellite as an operational spare satellite would provide additional route diversity at minimal U.S. costs. Therefore, we conclude that configuration of the INTELSAT Pacific Ocean Region in-orbit spare satellite as an operational spare satellite during the mid-1980's is desirable. However, construction of and use of analog HAW–4 and TPC–3 is not essential to satisfy projected demands for service at adequate levels of service quality during the mid-1980's due to the U.S. carriers' use of the ANZCAN cable system. In addition, U.S. carriers' use of ANZCAN would be more compatible with the early introduction of the more cost effective digital optical fiber technology into the Pacific Ocean Region. Therefore, we conclude that construction and use of the analog HAW–4 and TPC–3 cables proposed in Plan III would not serve the public interest.

C. Issues Deferred

52. In the NOI we initiated a comprehensive planning process in the Pacific Ocean Region for the 1981–1995 period. However, in the NPRM we decided to focus upon POR facilities planning for 1981–1986 and consider the 1987–1995 period in a subsequent phase of the proceeding.

53. In the next phase of the POR planning process we shall examine U.S. carriers' 1987–1995 forecasted circuit demands, their circuit requests, and alternative facility plans proposed for construction during that period. Both the DOC and DoD suggest that the Commission consider landing the TPC–3 cable in Guam as well as Japan. This concern has not been addressed here because the issue of service to Guam is not affected by the planning process for the 1981–1986 period. However, full consideration will be given to this important topic in the next phase of the proceeding, which will examine the introduction of the TPC–3 cable in 1988.

III. Conclusion

54. Accordingly, it is ordered pursuant to Sections 4(i), 4(j), 214 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 214 and 403 (1976), that we adopt the following policy guidelines for the Pacific Ocean Region:

(1) We find that U.S carriers' acquisition of ANZCAN circuits serves the public interest.

(2) We find that the public interest would be served by the American Telephone and Telegraph Company's acquisition of temporary IRU interests in 332 half circuits in ANZCAN North, and the International Record Carriers' acquisition of temporary IRU interests in 54 ANZCAN North half circuits for international service.

(3) We find that the public interest would be served by the authorization of American Telephone and Telegraph Company to acquire permanent ownership interests in 112 ANZCAN North half circuits and the International Record Carriers' acquisition of permanent ownership interests in 19 half circuits in ANZCAN North for international service.

(4) We find that the public interest would be served by the American Telephone and Telegraph Company and Hawaiian Telephone Company jointly acquiring temporary IRU interests in 149 whole circuits in ANZCAN North for domestic service.

(5) We find that the public interest would be served by the International Record Carriers acquiring temporary IRU interests in 47 whole circuits in ANZCAN North for domestic service.

(6) We find that Hawaiian Telephone Company's acquisition of permanent ownership interests in 60 half circuits in ANZCAN North for Canadian service would serve the public interest.

(7) We find that the Hawaiian Telephone Company's acquisition of 35 half circuits in ANZCAN North for European service would not serve the public interest.

(8) We find that the public interest will be served by the American Telephone and Telegraph Company acquiring permanent ownership interests in 360 half circuits, the International Record Carriers acquiring permanent ownership interests in 108 half circuits and Hawaiian Telephone Company acquiring permanent ownership interests in 50 half circuits in ANZCAN South.

(9) We find that the Master Plan and incorporation of the shortfall/longfall approach proposed by the American Telephone and Telegraph Company to accommodate deviations from forecasted traffic levels are reasonable.

(10) We find that the exemption of the IRCs from specific loading criteria would serve the public interest.

(11) We find that exemption of HTC's private line circuits from a specific loading methodology would serve the public interest.

(12) We find that standardized costing methodology need not be adopted in this phase of the planning process.

(13) We find that utilization of INTELSAT's in-orbit spare satellite as an operational spare satellite during the mid-1980's would serve the public interest.

(14) We find that construction and use of analog HAW–4 and TPC–3 cables would not serve the public interest.

55. It is further ordered that the rulemaking instituted by our Notice of Proposed Rulemaking is hereby terminated; but that the overall inquiry looking toward the development of facilities policy for the 1987–1995 period remains OPEN.

56. It is further ordered pursuant to § 0.291 of our Rules and Regulations, 47 CFR 0.291 (1980), that we continue the delegation of authority to the Chief, Common Carrier Bureau and his staff to meet with the parties to the inquiry in this proceeding and other interested persons to discuss matters relating to the issues on which we have deferred action as well as other matters relating to Pacific Ocean Region facilities

[32] In addition, the record supports the acquisition of interests in ANZCAN South and North. A discussion of those matters can be found in paragraphs 6–29, *supra*.

planning and to require submission of information relevant to those discussions.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.— Due to the effort to minimize publishing costs, Appendix I (Comments) (filed as part of the original document) will not be printed herein. However, this document in its entirety may be obtained from the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St. NW., Washington, D.C. 20554. A copy is also available for inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Room 639, both located at 1919 M St. NW., Washington, D.C.

APPENDIX II.—TOTAL USISC'S AND HTC FACILITY INVESTMENT COST OUTLAY [1]

[Dollars in millions]

	AT&T cost of money method (present worth of Jan. 1, 1984)
ANZCAN North	22.5
ANZCAN South	48.4
Total	70.9

[1] Based on the number of circuits listed in Appendix III, and the assumed individual facility unit costs ($1984) listed as follows: ANZCAN North—Temporary IRU (5 years), $18,177 per half-circuit; ANZCAN North—Ownership (24 years), $43,608 per half-circuit; ANZCAN South—Ownership (24 years), Australia, $90,857 per half-circuit; New Zealand, $112,971 per half-circuit; Fiji, $51,054 per half-circuit.

Source: AT&T Submission of June 28, 1982, Appendix E.

APPENDIX III.—GUIDELINE FOR ANZCAN CABLE CIRCUIT ACQUISITION

[4KHz assigned half circuits]

	AT&T	FTCC	ITT	RCA	TRT	WUI	HTC	Total
ANZCAN North:								
Australia	89P/139T	2T	5P/4T	9T	2T	9P		103P/156T.
Fiji	4P/3T			IT		1P		5P/4T.
New Zealand	19P/46T		2P/1T	2T	1T	2P		23P/50T.
Papua New Guinea	1T		1T					2T.
Hong Kong	22T		2T	4T		6T		34T.
Japan	67T							67T.
Malaysia	3T							3T.
Philippines	24T					8T		32T.
Singapore	12T		2T	2T		5T		21T.
Taiwan	11T		2T					13T.
Thailand	4T							4T.
Canada							60P	60P.
Hawaii	149T		15T*	12T*		20T*	149T	196T*.
Total	112P/481T	2T	7P/12T	18T	3T	12P/19T	60P/149T	191P/386T.
			15T*	12T*		20T*		196T*.
ANZCAN South:								
Australia	266P	4P	27P	20P	2P	37P	32P	388P.
Fiji	16P			1P		1P	6P	24P.
New Zealand	78P		4P	4P	1P	4P	12P	103P.
Papua New Guinea			1P	1P		1P		3P.
Total	360P	4P	32P	26P	3P	43P	50P	518P.

Legend: P (Ownership); T (Temporary IRU); * (Whole Circuit).

[FR Doc. 82-34173 Filed 12-21-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 1, 90, and 95

[FCC 82-397]

Substitution of Forms for Applications in the Private Land Mobile and General Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Memorandum Opinion and Order substituting Forms 574, 574A and 574B for Forms 400 and 400S for applications in the Private Land Mobile and General Mobile Radio Services. This action was taken because under international agreements the United States should report to the International Telecommunication Union certain technical data which is used to protect reported stations and to resolve interference disputes between licensees in different countries. The information is needed as well so that the Commission can carry out its licensing function. The new forms will better serve these ends.

DATE: Initiation of these new forms and procedural rules is contingent upon approval of the forms by the Office of Management and Budget. When such approval has been obtained, we will announce the effective date by public notice. Until that time, the existing rules remain in effect and the existing forms must be employed.

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

FOR FURTHER INFORMATION CONTACT: Charles F. Turner, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 90

Public safety radio services, Special emergency radio service, Industrial radio services, Land transportation radio services, Radiolocation service.

47 CFR Part 95

Personal radio services, General mobile radio service.

Adopted: August 24, 1982.

Released: August 31, 1982.

In the matter of amendment of the Commission's Rules to substitute Forms 574, 574A, and 574B for Forms 400 and 400S for applications in the Private Land Mobile and General Mobile Radio Services; memorandum opinion and order.

1. The Federal Communications Commission adopts new forms (FCC Forms 574, 574A and 574B) for use by applicants for authorizations in the Private Land Mobile and General Mobile Radio Services.

2. Pursuant to the requirements of Numbers 147 and 571 of the International Telecommunication Convention (Malaga-Torremolinas, 1973), as the United States is expected to report to the ITU certain technical data regarding the private land mobile radio services. This information is used to protect reported stations, and to resolve interference disputes between licensees in different countries.

3. In order to collect the necessary data, and to provide the Commission with additional information it requires, we are adopting new license application forms for use by applicants in the Private Land Mobile and General Mobile Radio Services. We are also taking this opportunity to modify our system licensing procedures in two respects. First we are expanding the number of stations that may be contained in a "system license." Second, we are making the submission of system applications optional raather than mandatory. See 47 CFR 90.117. Currently, only applications involving systems consisting of not more than two stations at permanent locations are submitted as applications for a "system license". Those needing larger systems have had to file multiple applications. This limitation was dictated by the capabilities of our data processing systems, and our intention has always been to expand the system licensing approach when it became practical to

do so.[1] [2] In addition, the mandatory filing requirement to file a system application when not more than two stations at a permanent location are involved has proved to be burdensome for both the Commission and the applicants. In view of our enhanced computer capabilities, therefore, applications involving systems consisting of not more than six stations at permanent locations may be filed as applications for systems licensing if the applicant wishes. We are eliminating, however, any compulsion on applicants to seek a single system license.

Form 574

4. Form 574 replaces Form 400. It is to be filed by those applying for new stations or systems, for modification of existing systems, or for Commission consent to the assignment of a license. The new form contains several data elements not contained on Form 400. Form 574 requires applicants to state the effective radiated power of their proposed station; this information is necessary for the Commission to comply with ITU reporting requirements. Other data elements which we had considered including at one time have been eliminated or reduced 8, *infra*. We are requiring submission of the name and telephone number of the person supplying technical data for the application in order to permit the Commission to contact this person should technical questions arise. At the same time we have been able to delete 5 questions previously required on the Form 400 which are no longer required for licensing.

5. To minimize the impact to the public in supplying data such as a station's effective radiated power, existing licensees may continue to use Form 405A (the short form renewal) when filing for a license renewal. They will, however, have to file Form 574 in instances of station modifications where they previously would have been required to file Form 400. Applicants may, as a precaution, wish to file Form 574 voluntarily, inasmuch as licensees will receive maximum protection from international interference only if the Commission can report current and accurate station information (including E.R.P.) to the ITU. If such information is not reported, any international interference disputes that arise may be resolved on the basis of "worst-case" assumptions that could be unfavorable to the licensee. In any case, the licensee would be protected in accordance with the limits of the assumptions reported by the FCC unless exceptions are filed.

Form 574A

6. Form 574A, replacing Form 400S, is to be filed by applicants for 800 MHz-band stations. This new form will enable the Commission to collect in a more orderly fashion information already supplied by licensees in this band. Because Form 574A does not collect any ITU required information, existing licensees are not required to file it for simple renewals. They may use 405A instead. They will be required to file 574A, however, when applying for a modification, for consent to an assignment, or for a new station or system. The data collection burden on the public (400S vs 574A) has also been reduced by the elimination of several questions previously required.

Form 574B

7. Form 574B pertains to stations operating on frequencies below 27.5 MHz for which additional data are required for reporting to ITU, and to stations close to the U.S.-Canada or U.S.-Mexico borders to satisfy coordination procedures established by treaties or agreements.[3] The form contains the following new data elements:

(1) Class of operation (required only on applications for frequencies below 27.5 MHz).

(2) Azimuth of main lobe.

(3) Angular width of radiation main lobe of directional antennas.

8. All licensees operating stations below 27.5 MHz, an estimated 500 of some 180,000 applications received yearly whatever their location, must file Form 574B. Because it is in the bands below 27.5 MHz that there is the greatest potential for international interference problems, no exception will be made of existing licensees. Thus existing licensees in these bands must file Form 574B the first time that they file for renewal of their authorizations following the effective date of the new rule and whenever a modification occurs which affects the data of the new rule and whenever a modification occurs which affects the data contained thereon. Applicants operating or seeking authorization to operate border-area facilities above 27.5 MHz will not be required to file Form 574–B. But, if they choose not to submit the form, the Commission will report the station to the coordinating nation as having certain assumed characteristics.[4] In those instances where the assumptions do not apply, applicants may provide the correct data by filing Form 574B. If they do not, they will be bound by the assumptions.

9. These changes are procedural in nature and we find notice and public procedure thereon are impractical and unnecessary. See 5 U.S.C Section 553(b)(3)(A). Nevertheless, we have informally solicited public comment regarding the proposed revisions. On December 11, 1980, we issued a Public Notice announcing the proposed changes and soliciting written comments. On January 6, 1981 and November 11, 1981, interested parties attended open meetings held by members of the Commission's staff and expressed their views. We have considered the comments made, and made some changes to these new forms as a result.[5]

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[1] This limitation does not apply to systems operating exclusively in the 470–512 MHz band.

[2] *Private Land Mobile Radio Services-System Licensing*, 71 FCC 2d 1150 (1979) at p. 1153–1154.

[3] Specifically, the following stations are involved:

(1) Those north of Line A, or east of Line C if the application is for a frequency between 30 MHz and 470 MHz.

(2) Those requesting frequencies in the portions of the frequency bands allocated to both countries that overlap in the two geographical areas as defined in the U.S.-Canada agreement, dated April 7, 1982, concerning the use of 800 MHz frequencies along the U.S.-Canada border.

[4] The assumed characteristics are as follows:

(a) *Class of Operation for HF stations.* All HF applicants must file Form 574B. However, any station record not updated will be assumed to operate in the "A" mode.

(b) *Antenna Polarization.* We will report each station as having a vertically polarized antenna.

(c) *Antenna Gain.* Since we require each applicant to report each transmitter's output power and effective radiated power, we will approximate the gain.

(d) *Antenna Azimuth of Main Lobe.* We will report each base or mobile relay station as having an omnidirectional (360 degrees) azimuth. We will assume that each control station associated with a mobile relay station has a directional antenna with its azimuth of maximum radiation directed toward the mobile relay station.

(e) *Beamwidth.* Since an omnidirectional antenna is assumed, beamwidth has no relevance and no assumption will be made. However, for control stations we will assume 20 degrees.

(f) *Regular Hours of Operation.* We will report each station as operating twenty-four hours per day.

(g) *Receiver Information.* We will assume that a receiver operates at the same location as a transmitter, and that all units specified on the same application form communicate with each other as a system. In other words, we will assume that the receiver site for a mobile station transmission is the location of the associated base station. The receiver site for a base station transmission will be assumed to be the area of operation of the associated mobile stations. For a control station transmission, the location of the associated mobile relay station's receiver antenna will be the assumed receiver site.

[5] We have modified the forms so as to make them easier to complete. For instance, we have "grandfathered" existing licensees, eliminating the need for them to supply effective radiated power data when they file renewal applications subsequent to the effective date of these new rules. In addition, these new forms provide larger spaces for listing multiple frequencies, so that applicants seeking to operate on a number of channels need

10. Initiation of these new forms and procedural rules is contingent upon approval of the forms by the Office of Management and Budget. When such approval has been obtained, we will announce the effective date by public notice. Until that time, the existing rules remain in effect and the existing forms must be employed.

11. For the reasons set forth above, Parts 1, 90 and 95 of Title 47, Code of Federal Regulations, are amended as set forth in the Appendix hereto, effective on a date to be published in the **Federal Register** following Office of Management and Budget approval of these new forms. This action is taken pursuant to Sections 4(i) and 303(r) of the Communications Act, as amended, 47 U.S.C. Sections 154(i) and 303(r).

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 1, 90, and 95 of Chapter 1 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. Section 1.922 is amended by removing the Form 400 and 400–10 from the list of Forms and adding in appropriate numerical order, Forms 574, 574–A, and 574–B as follows:

§ 1.922 Forms to be used.

FCC form	Title
* * * * *	
574	Application for Radio Station Authorization in the Private Land Mobile and General Mobile Radio Services.
574–A	Supplementary Information for Trunked and Conventional Systems (806–821 MHz and 851–866 MHz bands).
574–B	Private Fixed, Mobile, and Radiolocation Services Supplementary Information Form. Instructions for Completion of FCC Form 574.
* * * * *	

2. Section 1.924 is amended by revising paragraph (b)(2)(i), redesignating paragraphs (b)(2)(v) through (b)(2)(vii) as (b)(2)(iv) through (b)(2)(vi) respectively and reserving (b)(2)(vii).

not complete several application forms. In response to suggestions offered by frequency coordinators, we have added a data element that solicits a frequency coordination number. We have eliminated previously proposed data elements concerning points of communication, equipment type acceptance, shared use, and rendering of service. We have also deleted a proposed requirement to list wireline control points other than the primary control point.

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

* * * * *

(b) * * *

(2) * * *

(i) FCC Form 574: for assignment of station authorization in services under Part 90 of this chapter, except as provided in subparagraph (ii). Attached thereto shall be an executed Form 1046 or a signed letter from proposed assignor stating the desire to assign the current authorization in accordance with the rules governing the particular radio service involved. Applications for consent to assign authorizations of stations operating in the 806–821 and 851–866 MHz bands shall be accompanied by FCC Form 574–A. Applications for assignment of authorizations for stations operating on frequencies below 27.5 MHz shall be accompanied by FCC Form 574–B.

* * * * *

3. Section 1.926 is amended by adding a new paragraph (b)(3).

§ 1.926 Application for renewal of license.

* * * * *

(b) * * *

(3) Applications for renewal of stations operating on frequencies below 27.5 MHz may be submitted on FCC Form 405–A, but it must be accompanied by a completed FCC Form 574–B unless Form 574–B had been submitted previously for the station in question.

* * * * *

§ 1.931 [Removed]

4. Section 1.931, Application for extension of construction permit, is removed in its entirety.

5. Section 1.955 is amended as follows:

Paragraphs (a) and (g) are revised. New paragraph (h) is added.

§ 1.955 Frequency coordination, Canada.

(a) As a result of mutual agreements, the Commission has, since May 1950 had an arrangement with the Canadian Department of Communications for the exchange of frequency assignment information and engineering comments on proposed assignments along the Canada-United States borders in certain bands above 30 MHz. Except as provided in paragraph (b) of this section, this arrangement involves assignments in the following frequency bands.

MHz	*MHz*
30.56–32.00	75.40–76.00
33.00–34.00	150.80–174.00
35.00–36.00	450–470
37.00–38.00	806.00–960.00
39.00–40.00	1850.0–2200.0
42.00–46.00	2450.0–2690.0
47.00–49.60	3700.0–4200.0
72.00–73.00	5925.0–7125.0
GHz	*GHz*
10.55–10.68	10.70–13.25

* * * * *

(g) Proposed assignments in the space radiocommunication services and proposed assignments to stations in frequency bands allocated coequally to space and terrestrial services above 1 GHz are not treated by these arrangements. Such proposed assignments are subject to the regulatory provisions of the International Radio Regulations.

(h) Assignments proposed in the frequency band 806–890 MHz shall be in accordance with the Canada-United States agreement, dated April 7, 1982.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES.

1. Section 90.117 is revised as follows:

§ 90.117 Applications for radio station or radio system authorizations.

Persons desiring a radio station or radio system authorization must first submit the appropriate application(s). Prescribed application forms are listed in § 90.119. The Forms may be obtained from the Washington, D.C. office of the Commission, its Gettysburg, Pa. office, or from any of its engineering field offices. (See § 90.145 for information regarding special temporary authorizations.) Applicants for new stations comprising a land mobile radio system as defined in § 90.7 of this Part, or applicants modifying or renewing a station that is a part of a system, may file an application for a system authorization.

2. Section 90.119 is amended by revising the introductory text of paragraph (a) and paragraphs (a)(2)(i) and (a)(2)(ii). Present paragraphs (d) and (e) are redesignated as new paragraphs (f) and (g). Present paragraph (b) is redesignated as paragraph (e) and revised. New paragraphs (b), (c), and (d) are added as set forth below.

§ 90.119 Applications forms.

* * * * *

(a) Form 574 shall be used to apply:

(2) * * *

(i) Application for a radio system may be submitted on a single Form 574.

(ii) If the control station(s) will operate on the same frequency as the mobile station, and if the height of the control station(s) antenna(s) will not exceed 6.1 meters (20 feet) above the ground, or an existing man-made structure (other than an antenna structure), there is no limit on the number of such stations which may be authorized. Items 1 through 5 of Form 574 shall be completed showing the

frequency, the station class, the total number of control stations, the emission, and the output power of the highest powered control station.

* * * * *

(b) With respect to the 806–821 and 851–866 MHz bands, all applications required by this Section to be filed on Form 574 shall be accompanied by Form 574–A.

(c) With respect to the frequencies below 27.5 MHz, all applications required by this Section to be filed on Form 574 shall be accompanied by Form 574–B.

(d) Applications for stations on frequencies above 27.5 MHz in areas where international coordination is required may be accompanied by Form 574–B, but are not required to be. If the applicant files Form 574–B, the information concerning the proposed station that the Commission reports to the coordinating nation will be that provided on the Form. If the applicant does not file Form 574–B, the information concerning the proposed station that the Commission reports to the coordinating nation will be based on assumed technical characteristics determined by the Commission and described in instructions to Form 574. Specifically, the following stations are involved:

(1) Those north of Line A, or east of Line C if the application is for a frequency between 30 MHz and 470 and 929 and 930 MHz. Lines A and C are defined in Section 90.7.

(2) Those requesting frequencies in the portion of the frequency bands allocated to both countries that overlap in the two geographical areas as defined in the U.S. Canada agreement, dated April 7, 1982, concerning the use of 800 MHz frequencies along the U.S.-Canada border.

(e) Form 405–A shall be used to apply for a renewal without modification of a station or system license.

* * * * *

3. Section 90.135 is amended by revising paragraph(b)(7).

§ 90.135 Modification of license.

* * * * *

(b) * * *

(7) In the case of a change listed in subparagraphs (b)(3), (b)(4), or (b)(5) of this paragraph, the licensee shall promptly notify the Commission within 30 days of the change. The notice shall be filed on FCC Form 574 and sent to Federal Communications Commission, Gettysburg, Pa. 17325. If the notification relates to stations operating in 806–821 and 851–866 MHz bands, the Form 574 shall be accompanied by Form 574–A. If the notification relates to stations operating on frequencies above 27.5 MHz the Form 574 may be accompanied by Form 574–B, but is not a requirement. See § 90.119(d).

PART 95—PERSONAL RADIO SERVICES

Subpart A—General Mobile Radio Service

* * * * *

Part 95 is amended as follows:

1. Section 95.15 is amended by revising the introductory text of paragraph (a), paragraphs (a)(3), and (a)(6) through (a)(8), and adding paragraph (a)(5) as follows:

§ 95.15 Standard forms to be used.

(a) Except as required in paragraph (b) of this section, FCC Form 574 shall be used when:

* * * * *

(3) Application is made for station license of any base station or fixed station.

* * * * *

(5) Application is made for reinstatement of an expired authorization.

(6) Application is made for an authorization for a new base or fixed station to operate at unspecified or temporary locations. When individual transmitters are intended to be operated as base stations or as fixed stations at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at a temporary location. The application shall specify the general geographic area within which the operation will be confined. Data must be submitted to show why the proposed area of operation needs to be the size requested.

(7) Subject to the limitations set out in this Section, applicants for new stations comprising a land mobile radio system (See Section 95.17(e)), or applicants modifying or renewing a station that is part of a system may file an application for a system authorization if the system consists of not more than six land stations at permanent locations. The system may include any number of mobile stations and any number of fixed stations for control. The application must include:

(i) Number of fixed stations for control;

(ii) Their transmitting frequencies;

(iii) Their types of emission;

(iv) Their highest output powers;

(v) Each street address;

(vi) Each street address of control points;

(vii) Geographical coordinates for all land stations whose antenna heights exceed 6.1 meters;

(viii) Geographical coordinates for all fixed stations for control which transmit with more than 5 watts ERP.

(8) Applicants for new station licenses or for modification of existing station licenses, where the modification involves a change in station location or antenna height, must furnish a narrative statement concerning environmental impact, if required (See Part 1 of this chapter, §§ 1.1301 through 1.1319).

* * * * *

2. Section 95.17 is amended by revising paragraphs (b) and (e) as follows:

§ 95.17 Filing of applications

* * * * *

(b) Applications for station or system authorizations, applications for consent to transfer of control of a corporation holding a radio station or system authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a radio station or system authorization shall be submitted to the Federal Communications Commission, Gettysburg, Pennsylvania 17325. Prescribed application forms are set forth in 47 CFR Part 1, Sections 1.922 and 1.926.

* * * * *

(e) Applications for land mobile radio system authorizations will only be accepted for systems complying with § 95.15(a)(7).

* * * * *

[FR Doc. 82–34579 Filed 12–21–82; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 21217–253]

Tanner Crab Off Alaska

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

ACTION: Notice of season adjustment.

SUMMARY: The Secretary of Commerce establishes new season opening dates for Tanner crab fishing in the fishery conservation zone in the South Peninsula and Chignik Districts of

Registration Area J. The new opening dates are consistent with those set by the State of Alaska and are necessary to allow Tanner crab fishing during periods when meat content of the crab is more fully developed and of better quality. This action would promote conservation of Tanner crab stocks and more optimal use of harvested Tanner crab. This action also would provide coordinated State/Federal management of a Tanner crab fishery that is conducted simultaneously in State and Federal waters.

EFFECTIVE DATE: This notice of season adjustment is effective from December 17, 1982 through October 31, 1983. This notice was filed for public inspection with the Office of the Federal Register on December 17, 1982 at 5:05 p.m.

FOR FURTHER INFORMATION CONTACT: Robert W. WcVey, Director, Alaska Region, National Marine Fisheries Service, 907–586–7221.

SUPPLEMENTARY INFORMATION: The fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska provides for adjustments of season and area openings and closures by field order. Implementing rules at 50 CFR Part 671 specify at section 671.27(b) that these orders will be issued by the Secretary of Commerce under criteria set out in that section.

In March of 1982, the Alaska Board of Fisheries (Board) adopted changes to Tanner crab fishing seasons in both the South Peninsula and Chignik Districts of Registration Area J by changing the opening date in each district from 12:00 noon local time on December 15, to 12:00 noon local time on February 10. The Board took this action at a joint meeting of the Board and the North Pacific Fishery Management Council (Council) in response to requests from the fishing industry. At the request of the Council, the Secretary of Commerce made an initial determination to adopt these changes for the South Peninsula and Chignik Districts, explained the rationale for that determination, and invited comments on these changes through December 16, 1982 (47 FR 54125, December 1, 1982).

No comments were received during the comment period. By this notice the Secretary of Commerce confirms the initial determination to adopt those changes and announces that the opening dates for the Chignik and South Peninsula Districts are changed to 12:00 noon local time on February 10, 1983. Closing dates remain unchanged. This field order expires on October 31, 1983.

These new seasons will not be effective prior to filing this notice for publication with the Office of the Federal Register and publicizing the season opening for 48 hours through Alaska Department of Fish and Game (ADF&G) procedures, under 50 CFR 671.27(a)(2).

Other Matters

This action is taken under the authority of regulations specified at 50 CFR 671.27 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: December 17, 1982.

Joseph W. Angelovic,

Acting Deputy Assistant Administrator for Science and Technology National Marine Fisheries Service.

[FR Doc. 82-34700 Filed 12-17-82; 5:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 246
Wednesday, December 22, 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 AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 82-022]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for the Detection of Extraneous Agents in Vaccines Prepared Using Cells and Ingredients of Animal Origin; Relaxation of Testing Requirements

Correction

In FR Doc. 82-32636 beginning on page 53884, in the issue of Tuesday, November 30, 1982, make the following correction.

On page 53889, in the second column, the eighth line of § 113.55 (a)(3), the reference to "§ 113.2" should have read "§ 113.52".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its regulations to incorporate by reference the Summer 1982 Addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction of nuclear power plant components. Adoption of these amendments would permit the use of improved methods for construction of nuclear power plants.

DATE: Comments must be received by February 22, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Written comments or suggestions may be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. E. T. Baker, Division of Engineering Technology, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5893.

SUPPLEMENTARY INFORMATION: On July 29, 1982 (47 FR 32725), the Nuclear Regulatory Commission published in the **Federal Register** proposed amendments to is regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," which proposed incorporation by reference of the Winter 1981 Addenda to the ASME Boiler and Pressure Vessel Code. The proposed amendment would revise § 50.55a to incorporate by reference the Winter 1981 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," and to Section XI, Division 1, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code. The Summer 1982 Addenda to the ASME Code have been issued. The Commission proposes to further amend § 50.55a to incorporate by reference the Summer 1982 Addenda that modifies Section III, Division 1, of the ASME Boiler and Pressure Vessel Code.

Some of the changes effected in the addenda that would be incorporated through the adoption of the proposed amendments follow:

1. The foreword of all sections of the Code was revised regarding interpretations of the Code to restrict the authority to issue such interpretations to the American Society of Mechanical Engineers. Previously, paragraph thirteen of the foreword had permitted the National Board of Boiler and Pressure Vessel Inspectors to issue interpretations of the ASME Boiler and Pressure Vessel Code.

2. Paragraph NCA-8230(b) was revised to delete the requirement that the location of the nameplate for component supports be shown on the support drawing.

3. Code Case N-100, "Pressure Relief Valve Design," was adopted into the body of the Code as subsubarticle NB-3590. The Code Case will be annulled when the Summer 1982 Addenda becomes effective.

4. Subsubarticle NB-5520 was revised to update the reference to the American Society for Nondestructive Testing (ASNT) standard SNT-TC-1A, to the 1980 Edition. It was also revised to clearly state that even if an outside agency or ASNT provided the qualification examinations, the employer is still responsible for certifying its own personnel.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the NRC has made a determination that this proposed rule does not impose new nor impact existing information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this proposed rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended,

and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, Sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273), §§ 50.10(a), (b), and (c), 55.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 issued under sec. 161i, 68 Stat. 949, as amended, (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1) is revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Summer 1982 Addenda.

* * * * *

Dated at Bethesda, Maryland this 20th day of November 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-34588 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly Statements

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend its regulations to require futures commission merchants ("FCMs") to include in the monthly statements of account activity furnished to futures customers a detailed accounting of commissions and fees charged to the customer's account during the preceding month. The Commission is also requesting comments as to whether it should continue to require FCMs to include in their monthly statements to option customers information relating to commissions and fees. The Commission believes that the presentation of such information in summary form in monthly activity statements would be of benefit to futures customers.

DATE: Comments must be received on or before January 21, 1983.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Paul G. Thompson, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: On June 30, 1982, the Commission published proposed rules to expand the Commission's commodity options pilot program to include the trading on domestic exchanges of options on physicals. 47 FR 28401. That proposal also included proposed amendments to existing rules which would affect transactions in futures contracts and options on futures contracts. Among the proposed rules affecting futures transactions was a proposal to amend § 1.33(a)(1) to require that FCMs provide their futures customers with monthly activity statements which include information relating to financial charges and credits to the customer's account and trading activity during the preceding month. Proposed § 1.33(a)(1)(iv). The Commission proposed this requirement because it believed that the presentation of such information in summary form in monthly activity statements would be of benefit to futures customers. In particular, the Commission believed that the reiteration of this information would be useful to customers who otherwise would receive this data only on a "per transaction" basis in the purchase and sale statements provided pursuant to § 1.46(a) when it may not be focused on by customers. Furthermore, and as the Commission noted when it proposed this rule, § 1.33(a)(2)(v) presently requires that this information be provided to option customers. 47 FR at 28406.

The Commission, however, has recently received letters from FCMs suggesting that the inclusion of commissions and fees in the monthly statements provided to futures customers would require the modification, at great expense, of most FCMs' computer systems. These FCMs further suggested that implementation of such a requirement could substantially increase the length of the monthly statements now provided to futures customers, thereby making those statements less, rather than more, useful to their recipients. Thus, although the Commission is today publishing in the **Federal Register** rules and rule amendments it has adopted after consideration of the comments on its June 30, 1982 proposal, the Commission has decided to repropose § 1.33(a)(1)(iv) in order to allow other FCMs and interested members of the public an additional opportunity to offer comments on whether FCMs should be required to include information relating to commissions and fees in the monthly statements provided to their futures customers.[1]

As noted earlier, § 1.33(a)(2)(v) requires the inclusion of commissions and fees in the monthly statements provided to option customers. The Commission understands that comments submitted on the question of whether the Commission should require this information to be included in the monthly statements for futures transactions could also apply generally to whether this requirement is appropriate for option transactions.[2] The Commission is therefore requesting that in light of the special protections that are afforded to option customers under the Commission's pilot program regulations, such comments be separately identified and specifically address the value of such information to option customers.

The Commission has previously determined that registered futures commission merchants are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). 47 FR 18618 (April 30, 1982). The requirements of the Regulatory Flexibility Act do not, therefore, apply to those entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C.

[1] The Commission will consider the letters it has thus far received on this subject in its review of the amendment proposed herein.

[2] For example, confirmation statements for option transactions must include, among other items, all "commissions, costs, fees and other charges incurred in connection with the option transaction." Section 1.33(b)(2)(ii).

605(b) that the rules provided herein, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 1

Records, Monthly statements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Section 4g and 8a thereof, 7 U.S.C. 6g, 12a, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending § 1.33(a)(1)(iv) as follow:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.33 is proposed to be amended by revising paragraph (a)(1)(iv) to read as follows:

§ 1.33 Monthly and confirmation statements

(a) * * *

(1) * * *

(iv) A detailed accounting of all financial charges and credits to the commodity customer's account during the monthly reporting period, including all customer funds received from or disbursed to the commodity customer, commissions and fees, and realized profits and losses; and

* * * * *

Issued in Washington, D.C. on December 13, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-34539 Filed 12-21-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-148 (Oklahoma-5)]

High-Cost Gas Produced From Tight Formations; Oklahoma Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Oklahoma that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on January 31, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or John Roy Johnson, (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Issued: December 16, 1982.

I. Background

On October 23, 1982, the Oklahoma Corporation Commission (Oklahoma) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group located in Lincoln County, Oklahoma, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Oklahoma's recommendation that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group be designated a tight formation should be adopted. Oklahoma's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Oklahoma has recommended that the "Jones Sand member" of the "Cleveland Sand" interval, underlying Sections 1 through 4 and 9 through 12, Township 13 North, Range 2 East; Sections 4 through 8, Township 13 North, Range 3 East; Sections 21 through 28 and 33 through 36, Township 14 North, Range 2 East; and Sections 19, 20 and 28 through 33, Township 14 North, Range 3 East, in Lincoln County, central Oklahoma, be designated a tight formation. The recommended interval is Early Pennsylvanian (Missourian) in age.

The "Jones Sand member" is composed of an "upper", "middle" and "lower" sand zone and two interbedded zones of predominantly shale. The sand zones consist of fine- to very fine-grained, well cemented quartz sandstone and interbedded shale.

The depth of the recommended interval ranges from 3,910 to 4,500 feet, and it is approximately 200 feet thick. The top of the designated interval is respectively overlain by a shale zone (ranging from 200 to 280 feet in thickness), the "Upper Cleveland sand" and the "Checkerboard limestone" of the Lower Skiatook Group; the recommended interval is underlain by a shale zone (ranging from 100 to 150 feet in thickness which separates the "Oswego limestone" of the Marmaton Group (Des Moinesian age) from the "Lower Jones sand" zone.

III. Discussion of Recommendation

Oklahoma claims in its submission that evidence gathered through information and testimony presented at public hearings convened on July 20 and August 16, 1982, by Oklahoma on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Oklahoma further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Oklahoma that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group, as described and delineated in Oklahoma's recommendation as filed with the

Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–148 (Oklahoma-5) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Oklahoma's recommendation is adopted.

Kenneth A. Williams

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (152) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (151) [Reserved]

(152) *"Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group in Oklahoma.* RM79–76–148 (Oklahoma-5).

(i) *Delineation of formation.* The designated interval is found in Sections 1 through 4 and 9 through 12, Township 13 North, Range 2 East; Sections 4 through 8, Township 13 North, Range 3 East; Sections 21 through 28 and 33 through 36, Township 14 North, Range 2 East; and Sections 19, 20 and 28 through 33, Township 14 North, Range 3 East, in Lincoln County, central Oklahoma. The "Jones Sand member" consists of three quartz sandstone zones and two interbedded zones of predominantly shale.

(ii) *Depth.* The depth of the applicable interval ranges from 3,910 to 4,500 feet, and it is approximately 200 feet thick. The top of the designated interval is respectively overlain by a shale zone (ranging from 200 to 280 feet in thickness), the "Upper Cleveland sand" and the "Checkerboard limestone" of the Lower Skiatook Group; the interval is underlain by a shale zone (ranging from 100 to 150 feet in thickness) which separates the "Oswego limestone" of the Marmaton Group (Des Moinesian age) from the "Lower Jones sand" zone.

[FR Doc. 82–34615 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–159 (Texas-29)]

High-Cost Gas Produced From Tight Formations, Texas; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by Section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Vicksburg Formation in the Portilla (9000') Field be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on January 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

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

SUPPLEMENTARY INFORMATION:

Issued: December 16, 1982.

I. Background

On November 9, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Vicksburg Formation in the Portilla (9000') Field, in San Patricio County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Vicksburg Formation in the Portilla (9000') Field be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Vicksburg Formation in the Portilla (9000') Field in the northern portion of San Patricio County, Texas, Railroad Commission District 4, be designated as a tight formation. The recommended area is located approximately six miles northeast of Sinton, Texas, and underlies some 15,000 acres of land bounded by the Chiltipin Creek to the south, U.S. Highway 77 to the west, and the Aransas River to the north. The eastern boundary is a line extending from the Chiltipin Creek on the south to the Aransas River on the north and approximately bisecting the following surveys; Isaac Clover A–89, N. J. Devenny A–105, and Ralph Ellis Hrs. A–115. The depth to the top of the Vicksburg Formation in the Portilla (9000') Field varies between 8,600 feet and 9,000 feet, and the formation extends to depths in excess of 11,000 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Vicksburg Formation in the Portilla (9000') Field as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–159 (Texas-29) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (155) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (154) [Reserved]

(155) *Vicksburg Formation in the Portilla (9000') Field in Texas.* RM78–76–159 (Texas-29).

(i) *Delineation of formation.* The Vicksburg Formation in the Portilla (9000') Field is located in the northern portion of San Patricio County, Texas, Railroad Commission District 4, approximately six miles northeast of Sinton, Texas, and underlies 15,000 acres of land bounded by the Chiltipin Creek to the south, U.S. Highway 77 to the west, and the Aransas River to the north. The eastern boundary is a line extending from the Chiltipin Creek on the south to the Aransas River on the north and approximately bisecting the following surveys; Isaac Clover A–89, N. J. Devenny A–105, and Ralph Ellis Hrs. A–115.

(ii) *Depth.* The depth to the top of the Vicksburg Formation in the Portilla (9000') Field varies between 8,600 feet and 9,000 feet and the formation extends to depths in excess of 11,000 feet.

[FR Doc. 82–34613 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–76–149 (Texas-3 Addition IV)]

High-Cost Gas Produced From Tight Formations, Texas; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, Texas, be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on January 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

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

SUPPLEMENTARY INFORMATION:

Issued December 16, 1982.

I. Background

On October 22, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, in west Texas, be designated as tight formations. The Commission previously adopted a recommendation

that the Cisco-Canyon Formations encountered in a specified portion of Glasscock County be designated as tight formations. (Order No. 242, issued July 15, 1982, in Docket No. RM79–76 (Texas-3 Addition III)). Pursuant to 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Cisco-Canyon Formations in Glasscock, Reagan, and Sterling Counties be designated tight formations should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Cisco-Canyon Formations encountered in southeast Glasscock County, southwest Sterling County and northwest Reagan County, in west Texas, Railroad Commission Districts 7C and 8, be designated as tight formations. The area lies to the north and west of the Sallie (Cisco) Field and is an extension of the Cisco-Canyon Formations in Glasscock County in the area of the Conger, S.W. (Penn) Field which have previously been approved. The recommended area includes the following sections: T. & P. RR. Block 33, T–5–S, Sections 34, 36, and the west half of Section 38; T. & P. RR. Block 32, T–5–S, Sections 42 and 46; T. & P. RR. Block 2, Sections 44, 50, 62, 70, 90, 100, 118, 128, 146, 155 and 156; G. C. & S. F. RR., Sections 1 and 3; C. T. & M. C. RR., Section 2; E. L. & RR. Sections 3 and 4; W. R. Barton, Section 4; S. H. Birdwell, Section 17; Brooks & Burleson, Sections 1 and 2; D. L. Carver, Section 4; T. B. Wilson, Section 2; and approximately the south half of the H. T. Tweedle, Section 2 (I. W. Terry Fee).

The depth to the top of the Cisco Formation varies from approximately 8,670 feet on the west part of the area to 7,810 feet on the east. The depth to the top of the Canyon Formation (the base of the Cisco Formation) varies from approximately 8,810 feet on the west to 7,970 feet on the east. Total thickness of the two sandstone formations varies from approximately 200 feet on the west to 430 feet on the east.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Cisco-Canyon Formations, as described and delineated in Texas' recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-149 (Texas-3 Addition IV), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by revising subparagraph (12)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(12) *Cisco Sandstone Formation in Texas.* RM79–76–149 (Texas-3 Addition IV).

* * * * *

(iii) *The Cisco-Canyon Formations.*

(A) *Delineation of formation.* The Cisco-Canyon Formations are found in the area of the Conger, S.W. (Penn) Field in Glasscock, Reagan and Sterling Counties, Texas, Railroad Commission Districts 7C and 8. The area includes the following sections: T. & P. RR. Co. Block 33, T-5-S, Sections 34, 36, and W½ of 38; T. & P. RR. Co. Block 32, T-5-S, Sections 40, 41, 42 and 46; T. & P. RR. Co. Block 2, Sections 44, 50, 62, 70, 90, 100, 118, 128, 146, 155 and 156; G. C. & F. RR., Sections 1 and 3; C. T. & M. C. RR., Section 2; E. L. & RR., Sections 3 and 4; W. R. Barton, Section 4; S.H. Birdwell, Section 17; Brooks & Burleson, Sections 1 and 2; D. L. Carver, Section 4; T. B. Wilson, Section 2; and approximately the south half of H. T. Tweedle, Section 2 (I. W. Terry Fee).

(B) *Depth.* The depth to the top of the Cisco Formation varies from approximately 8,670 feet on the west part of the area to 7,810 feet on the east. The depth to the top of the Canyon Formation (the base of the Cisco Formation) varies from approximately 8,810 feet on the west to 7,970 feet on the east. Total thickness of the two formations varies from approximately 200 feet on the west to 430 feet on the east.

[FR Doc. 82–34614 Filed 12–21–82; 8:45 am]
BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79-76-155 (Utah-7)]

High-Cost Gas Produced From Tight Formations; Utah Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR section 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Utah that the Mancos "B" formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on January 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued December 16, 1982.

I. Background

On November 5, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mancos "B" Formation located in Carbon County, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Mancos "B" Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Utah's recommendation. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located about 18 miles northeast of Price, Utah, and underlies all of Township 12 South, Range 13 East in Caron County, Utah. The recommended area contains approximately 22,207 acres, of which 76% is federal land, 16% is state land, 8% is fee land.

The Mancos "B" Formation is a distinct lithologic unit within the Mancos Shale. In the recommended area, the Mancos "B" Formation is found at a depth of between 7,000 and 7,800 feet with an average depth to the top of the formation of 7,490 feet. The designated formation varies in thickness from 1,400 feet to 1,600 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. TGF-106 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c) (2) (i) (B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM 80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Mancos "B" Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM 79-76-155 (Utah-7), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (151) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (150) [Reserved]

(151) *Mancos "B" Formation in Utah.* RM79-76-155 (Utah-7).

(i) *Delineation of formation.* The Mancos "B" Formation is located in all

of Township 12 South, Range 13 East, SLM, in Carbon County, Utah.

(ii) *Depth.* The Mancos "B" Formation is a distinct lithologic unit of the Mancos Shale, occurring 200 to 300 feet below the top of the Mancos Formation. The formation varies in thickness from 1,400 to 1,600 feet and is found at an average depth of 7,490 feet.

[FR Doc. 82-34616 Filed 12-21-82; 8:45 am]
BILLING CODE 6717-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6470]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Ph.D., National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Anniston, Calhoun County	Cane Creek	Approximately 100 feet downstream of Southern Railway.	*670
			Approximately 250 feet upstream of Weaver Road	*677
		Cave Creek	Approximately 60 feet downstream of Weaver Road	*675
			Just downstream of Cave Road	*688
			Just upstream of State Highway 21 southbound	*741
		Snow Creek	Approximately 200 feet downstream of Noble Street	*640
			Approximately 100 feet upstream of F Street	*660
			Approximately 150 feet upstream of Glen Addie Avenue.	*682
			Approximately 100 feet upstream of 16th Street	*706
		Hobson Creek	Just upstream of Front Avenue	*639
			Just downstream of McDaniel Street	*660
		Pilgrim Creek	Just upstream of Quintard Avenue (shallow flooding)	#1
			Just upstream of 7th Street	*759
			Approximately 70 feet upstream of Kirkwood Avenue	*773
		Golden Springs Branch	Approximately 220 feet upstream of Lyda Road	*668
			Just upstream of Choccolocco Road	*809
			Approximately 90 feet upstream of Golden Springs Road.	*857
			Just downstream of Shamrock Road	*864
		Boiling Springs Branch	Approximately 120 feet upstream of Rosetta Lane	*681
			Approximately 70 feet downstream of Greenbriar Drive	*683
		Dearmanville Branch	Just upstream of Greenbriar Drive	*671
			Approximately 70 feet upstream of Lera Drive extension.	*757
		West Branch (Shallow Flooding)	Just upstream of Southern Railway	#1
		East Branch (Shallow Flooding)	Just upstream of 10th Street	#2

Maps available for inspection at Planning Office, City Hall, Anniston, Alabama 36202.

Send comments to Mayor Gertrude R. Williams or Mr. Tom Magee, Planning Director, City Hall, Anniston, Alabama 36202.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated Areas of Calhoun County	Cane Creek	Just upstream of Louisville and Nashville Railroad	*612
			Just upstream of Saks Road	*640
			Just upstream of Nielsen Street	*754
		Leniock Branch	Just upstream of Glade Circle	*671
		Cave Creek	Approximately 100 feet downstream of 4th Avenue	*745
			Just downstream of 2nd Avenue	*765
		Remount Creek	Just upstream of Galloway Road	*714
			Just upstream of Baltzell Road	*715
			Just upstream of Summerall Gate Road	*771
		South Branch (Cane Creek)	Just upstream of 10th Street	*731
			Just upstream of 20th Street	*752
			Just upstream of 23rd Street	*785
			Just downstream of Rock Hollow Road	*847
		Ingram Creek	Just downstream of Rock Hollow Road	*813
		Choccolocco Creek	Just downstream of Boiling Springs Road	*617
		Snow Creek	Just upstream of U.S. Highway 431 and State Highway 21.	*631
		Golden Springs Branch	Approximately 80 feet upstream of U.S. Highway 431	*623
			Approximately 80 feet downstream of Greenbriar Drive	*658
		Boiling Springs Branch	Just upstream of Miller Lane	*656
		Dearmanville Branch	Approximately 340 feet upstream of Golden Springs Road.	*621
			Approximately 100 feet downstream of Southern Railroad.	*652
		Terrapin Creek	Just upstream of Southern Railway	*658
			Approximately 170 feet upstream of U.S. Highway 278	*661
		Mill Creek	Just upstream of Seaboard Coastline Railroad	*724
			Just downstream of State Highway 21	*752
		Mill Creek Tributary No. 1	Approximately 70 feet downstream of State Highway 21.	*714
			Just upstream of State Highway 21	*717
			Just downstream of private drive (approximately 1,360 feet upstream of State Highway 21).	*733
		Nances Creek	Approximately 470 feet downstream of Southern Railway.	*662
			Just upstream of County Highway 70	*676
			Just downstream of Spencer Street	*684
		Nances Creek Tributary No. 2	Approximately 250 feet upstream of confluence with Nances Creek.	*663
		Tallasseehatchee Creek	Just upstream of State Highway 204	*607
		Little Tallasseehatchee Creek	Just downstream of Southern Railway	*629
			Just upstream of Southern Railway	*643
			Approximately 350 feet upstream of Alexandria Roar	*645

Maps available for inspection at Civil Defense Office, 25 West Eleventh Street, and at the Calhoun County Courthouse, Anniston, Alabama 36201.

Send comments to Mr. Jack Boozer, Chairman, County Board of Commissioners, or Mr. Ken Joiner, County Administrator, Calhoun County Courthouse, Anniston, Alabama 36201.

Alabama	City of Clanton, Chilton County	Goose Pond Creek	Just upstream of Lay Dam Road	*569
			Just upstream of Louisville and Nashville Railroad	*572
		Poley Bridge Creek	Just downstream of 6th Street	*569
			Just upstream of Louisville and Nashville Railroad	*575
		Black Snake Creek	Just upstream of Ollie Avenue	*571
			Just upstream of Blacksnake Road	*586
		Goose Pond Tributary 1	Just upstream of 16th Avenue North	*579
			Just downstream of Center Street	*586
		Goose Pond Tributary 2	Just upstream of Old Thursby Road	*580
			Just upstream of 14th Avenue	*589

Maps available for inspection at City Clerk's Office, City Hall, Second Avenue, Clanton, Alabama 35045.

Send comments to Mayor Basil Clark, City Hall, P.O. Box 580, Clanton, Alabama 35045.

Alabama	City of Hobson City, Calhoun County	Park Creek	Just upstream of Church Street	*668
			Just upstream of Park Avenue	*694
		Hobson Creek	Just upstream of Church Street	*671

Maps available for inspection at City Clerk's Office, City Hall, 610 Park Avenue, Hobson City, Alabama 36201.

Send comments to Mayor Willie Snow or Ms. Denise Derames, City Clerk, City Hall, 610 Park Avenue, Hobson City, Alabama 36201.

Alabama	Town of Maplesville, Calhoun County	Byrd Creek	Just downstream of Illinois Central Gulf Railroad	*323
			Just downstream of Farm Road	*357
		Little Mulberry Creek	Approximately 150 feet downstream of State Highway 22.	*325
			Approximately 100 feet upstream of State Highway 22	*326

Maps available for inspection at Town Clerk's Office, Town Hall, Main Street, Maplesville, Alabama 36750.

Send comments to Mayor Aubrey C. Morrison or Mr. Jesse J. Hayes, Jr., Town Councilman, Town Hall, P.O. Box 9, Maplesville, Alabama 36750.

Alabama	City of Oxford, Calhoun County	Choccolocco Creek	Just downstream of Friendship Road	*605
		Snow Creek	Just upstream of Interstate Highway 20	*612
			Just downstream of Snow Street	*618
		Golden Springs Branch	Just upstream of U.S. Highway 78 and 431	*623
		Boiling Springs Branch	Just upstream of U.S. Highway 78 and 431	*632
		Park Creek	Approximately 80 feet downstream of McDaniel Street	*662
		Hobson Creek	Approximately 350 feet upstream of Southern Railway	*647

Maps available for inspection at City Administrator's Office, City Hall, 100 Choccolocco Street, Orford, Alabama 36203.

Send comments to Mayor Thurman Whitmore or Mr. Tom Simpson, City Administrator, City Hall, P.O. Box 3383, Oxford, Alabama 36203.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Tallassee, Elmore and Tallapoosa Counties	Graveyard Creek	Approximately 200 feet upstream of Noble Street	*304
		Lewis Creek	Approximately 220 feet downstream of Friendship Road.	*274
	Maps available for inspection at City Hall, 214 Varnett Boulevard, Tallassee, Alabama 36078.			
	Send comments to Mayor Thomas Pollard or Ms. Betty Elrod, City Clerk, City Hall, Tallassee, Alabama 36078.			
Alabama	City of Union Springs, Bullock County	Conecuh River—Old Town Creek	Just upstream of U.S. Highway 29/State Highway 15	*464
			Approximately 220 feet downstream of confluence of Tributary No. 3.	*467
			Approximately 330 feet upstream of U.S. Highway 82/ State Highway 6.	*477
		Tributary No. 1	Approximately 250 feet upstream of confluence with Conecuh River—Old Town Creek.	*465
		Tributary No. 2	Just upstream of South Rooney Street	*470
		Tributary No. 3	Just upstream of Southern Railway	*479
		Slaughter Creek	Approximately 70 feet upstream of confluence of Slaughter Creek Tributary No. 1.	*359
		Slaughter Creek Tributary 1	Approximately 100 feet upstream of confluence with Slaughter Creek.	*359
	Maps available for inspection at City Administrator's Office, City Hall, 303 North Prairie Street, Union Springs, Alabama 36089.			
	Send comments to Mayor Wiley T. Gibson, Jr., or Mr. Robert Wolting, City Administrator, City Hall, P.O. Box 549, Union Spring, Alabama 36089.			
Alabama	City of Weaver, Calhoun County	Cave Creek	Just downstream of Lett Street (Extended)	*751
	Maps available for inspection at City Hall, 406 Anderson Street, Weaver, Alabama 37277.			
	Send comments to Mayor Raymond Ewell, or Mr. Dewey Sams, Water Department, City Hall, P.O. Box A, Weaver, Alabama 37277.			
Alaska	Nome (city), Nome Division	Snake River	At the intersection of Center Creek Road and Airport Road.	*15
		Norton Sound	200 feet South of the center of West K St. and Gold Avenue.	*21
			230 feet Southwest of center of intersection of River Street and Front Street.	*27
			50 feet South of the center of the intersection of Carstens Way and East Front Street.	*20
			At intersection of East Front Street and Campbell Way	*#2
	Maps available for inspection at City Clerk's Office, Front and Division, Nome, Alaska.			
	Send comments to Honorable Leo Rasmussen, Box 281, Nome Alaska 99762.			
California	Long Beach (city), Los Angeles County	Pacific Ocean, San Pedro Bay	60 feet south from center of intersection of Seaside Walk with 66th Place.	*6
		Alamitos Bay	Center of intersection of Division Street with Pomona Avenue.	*6
		Los Cerritos Channel	At the intersection of channel with Pacific Coast Highway.	*6
		Pacific Ocean, San Pedro Bay	750 feet south from center of intersection of Ocean Boulevard with Alamitos Avenue.	*7
		Los Angeles River	At the intersection of channel with Queens Way	*7
		Shallow Flooding	Center of intersection of 7th Street with Prospect Avenue.	*9
		Shallow Flooding	Center of intersection of Cowles Street with San Francisco Avenue.	*9
	Maps available for inspection at Engineering and Planning Department, 333 W. Ocean Boulevard, Long Beach, California.			
	Send comments to Honorable Barbara Doerr, 333 W. Ocean Boulevard, Long Beach. California 90802.			
California	Redondo Beach (city), Los Angeles County	Pacific Ocean	At Pleasure Pier	*6
			120 feet west from center of intersection of Harbor Drive and Diamond Street.	*4
			500 feet west from center of intersection of Hopkins Way and Yacht Club.	*9
		Shallow Flooding	50 feet west from center of intersection of Ripley Avenue and Rindge Lane.	*62
			75 feet east from center of intersection of Goodman and Wylie Avenues.	*93
			Center of intersection of Vincent Street and South Irena Avenue.	*81
			150 feet south from center of intersection of South Juanita Avenue and Camino Real.	*120
			Center of intersection of Avenue H and Massena Avenue.	*63
	Maps available for inspection at Engineering Department, 415 Diamond Avenue, Redondo Beach, California.			
	Send comments to Honorable Barbara Doerr, 415 Diamond Avenue, Redondo Beach, California 90277.			
Idaho	Albion (city), Cassia County	College Creek	5 feet downstream from center of Main Street	*4,719
			At the intersection of Market Street and West Street	*#2
		Marsh Creek	60 feet downstream from center of Main Street	*4,714
	Maps available for inspection at City Hall, Albion, Idaho.			
	Send comments to Honorable Kay Powell, Box 163, Albion, Idaho 83311.			

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Idaho	Cassia County (unincorporated areas)	Marsh Creek near Declo	10 feet upstream from center of 4th West Street	*4,198
		Marsh Creek near Albion	95 feet upstream from center of North Street	*4,664
		College Creek	Center of State Highway 77, 600 feet southwest along highway from its intersection with Bowlden Alley.	*4,735
		Land Creek	50 feet downstream from center of State Highway 77	*4,732
	Maps available for inspection at Civil Defense Office, 129 E. 14th Street, Burley, Idaho.			
	Send comments to Honorable J. Weldon Beck, Cassia County Courthouse, Burley, Idaho 83318.			
Idaho	Declo (city), Cassia County	Marsh Creek	At the intersection of stream and Clark Street	*4,203
	Maps available for inspection at City Hall, Declo, Idaho.			
	Send comments to Honorable Jones Leonard, Box 141, Declo, Idaho 83323.			
Illinois	(V) Elizabethtown, Hardin County	Ohio River	Within Corporate limit	*358
	Maps available for inspection at the Clerk's Office. Elizabethtown, Illinois.			
	Send comments to Honorable Robert T. Patton, Village President, Village of Elizabethtown, P.O. Box 155, Elizabethtown, Illinois 62931.			
Illinois	(C) Keithsburg, Mercer County	Mississippi River	About 1.4 miles downstream of confluence of Pope Creek.	*543
			About 0.9 mile upstream of confluence of Pope Creek	*544
	Maps available for inspection at City Hall, Fourth and Main Streets, Keithsburg, Illinois.			
	Send comments to Honorable Henry Swank, Mayor, City of Keithsburg, City Hall, Fourth and Main Streets, Keithsburg, Illinois 61442.			
Illinois	(C) Marion, Williamson County	Westernaire Creek	Just upstream of West Main Street	*421
			Just upstream of DeYoung Street	*432
		West Fork Westernaire Creek	At mouth at Westernaire Creek	*423
			About 1,300 feet upstreams of mouth	*426
		Campground Creek	Just upstream of West Main Street	*424
			Just upstream of Illinois Central Gulf Railroad	*428
		West Fork Campground Creek	At mouth at Campground Creek	*424
			Just downstream of Illinois Central Gulf Railroad	*424
		East Fork Campground Creek	Just upstream of West Main Street	*423
			About 1,300 feet upstream of Halfway Road	*430
		Mule Creek	At mouth at Fairgrounds Creek	*426
			Just upstream of Harper Street	*436
			About 600 feet upstream of Madison Street	*441
		High School Tributary	At mouth at Crab Orchard Creek	*420
			Just upstream of South Carbon Street	*430
		North Fork High School	Mouth at High School Tributary	*423
			Just downstream of Hendrickson Street	*430
		Fairgrounds Creek	At mouth at Crab Orchard Creek	*424
			Just upstream of DeYong Street	*438
		Westend Creek	At mouth at Fairgrounds Creek	*424
			Just upstream of Goodall Street	*436
		North Fork Westend Creek	At mouth at Westend Creek	*430
			Just upstream of Stockton Street	*438
		Crab Orchard	About 100 feet upstream of confluence of High School Tributary.	*420
			About 300 feet upstream of Old Creal Springs Road	*427
			About 1,900 feet downstream of DeYoung Street	*430
	Maps available for inspection at the Clerk's Office, City Hall, 100 Tower Square Plaza, Marion, Illinois.			
	Send comments to Honorable Robert L. Butler, Mayor, City of Marion, City Hall, 100 Tower Square Plaza, Marion, Illinois 62959.			
Illinois	(C) Rosiclare, Harding County	Ohio River	At downstream corporate limits	*356
			At upstream corporate limits	*357
	Map available for inspection at City Hall, Main Street, Rosiclare, Illinois.			
	Send comments to Honorable Bill Cook, Mayor, City of Rosiclare, City Hall, Box 474, Main Street, Rosiclare, Illinois 62982.			
Indiana	(Uninc.) Decatur County	Flatrock River	Decatur-Shelby County Line	*786
			Just upstream of Unnamed Tributary about 1.89 miles upstream of Conrail.	*805
			About 1.25 miles downstream of County Road 400 West.	*814
			Just downstream of County Road 400 West	*829
		Clifty Creek	About 0.6 mile downstream of County Road 100 West	*795
			About 0.78 mile upstream of County Road 100 West	*813
		Sand Creek	About 0.49 mile downstream of City of Greensburg corporate limits.	*901
			Just downstream of City of Greensburg corporate limits.	*910
		Gas Creek	About 200 feet downstream of Montgomery road	*932
			Just upstream of Montgomery Road	*935
			About 1.08 miles upstream of Barachel Lane	*951
		Little Flatrock River	About 0.35 mile upstream from mouth	*811
			About 1.73 miles upstream from mouth	*840
		Muddy Fork	About 0.6 mile downstream of Park Road	*886
			Just downstream of Park Road	*889
			Just upstream of Park Road	*894
			Just upstream of Dam	*901
			About 0.6 mile upstream of State Road 3 bypass	*915

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Unnamed Tributary to Muddy Fork	Just downstream of Dam	*913
			Just upstream of Dam	*918
			Just upstream of Conrail	*922
			Just upstream of State Road 3 bypass	*925
			About 0.16 mile upstream of U.S. Highway 421	*929
		Unnamed Tributary to Salt Creek	About 0.46 mile downstream of Base Road	*906
			Just downstream of Base Road-850	*919
			Just upstream of Base Road-850 East Road	*925
			About 0.48 mile upstream of Base Road-850 East Road.	*931
		Unnamed Tributary to Sand Creek	About 0.02 mile upstream from mouth	*935
			About 0.92 mile upstream from mouth	*963
		Fall Fork Clifty Creek	About 0.28 feet downstream of State Highway 46	*786
			Just downstream of 700 West Road	*798
			Just upstream of 700 West Road	*802
			Just downstream of County Road 200 South	*805
		Turnover Creek	Just upstream of County Road 1300 South	*746
			Just downstream of State Road 3	*763

Maps available for inspection at the Decatur County Courthouse, Greensburg, Indiana.

Send comments to Honorable Gordon Springmeir, Chairman of the County Commissioners, Decatur County, Decatur County Courthouse, Greensburg, Indiana 47240.

Indiana	(C) Greensburg, Decatur County	Sand Creek	Downstream corporate limit	*910
			upstream corporate limit	*924
		Gas Creek	About 0.2 mile downstream of Franklin Street	*907
			About 150 feet downstream of Franklin Street	*909
			Just upstream of Franklin Street	*916
			Just downstream of Conrail	*922
			Just upstream of Conrail	*928
			About 0.42 mile upstream of Barachel Lane	*943
		Unnamed Tributary to Muddy Fork	About 0.48 mile downstream of Michigan Avenue	*925
			Just downstream of Conrail	*935

Maps available for inspection at City Hall, Greensburg, Indiana.

Send comments to Honorable Sheldon Smith, Mayor, City of Greensburg, City Hall, Greensburg, Indiana 47240.

Indiana	(T) Middlebury, Elkhart County	Little Elkhart River	About 1.0 mile downstream of State Route 13	*808
			About 0.95 mile downstream of State Route 13	*813
			About 0.87 mile upstream of County Road 16	*825

Maps available for inspection at the Town Hall, Middlebury, Indiana.

Send comments to Honorable Ernie Miller, Town Board President, Town of Middlebury, Town Hall, P.O. Box 812, Middlebury, Indiana 46540.

Indiana	(C) Nappanee Elkhart and Kosciusko Counties	Berlin Court Ditch	About 1400 feet downstream of County Road 7	*850
			About 900 feet upstream of County Road 3	*859

Maps available for inspection at the City Hall—Municipal Center, 300 West Lincoln, Nappanee, Indiana.

Send comments to Honorable Robert Callander, Mayor, City of Nappanee, City Hall—Municipal Center, 300 West Lincoln, Box 29, Nappanee, Indiana 46550.

Kansas	(Uninc.) Harvey, County	Little Arkansas River	At downstream county boundary	*1374
			At confluence of Kisiwa Creek	*1385
			Just upstream of Atchison, Topeka, and Santa Fe Railway.	*1392
			Just downstream of U.S. Route 50	*1398
		Sand Creek	At confluence with Little Arkansas River	*1375
			Just upstream of County Road 584	*1388
			Just upstream of County Road 580	*1396
			Just upstream of County Road 817	*1406
			Just downstream of West First Street	*1420
			About 800 feet downstream of Missouri Pacific Railroad.	*1425
			Just upstream of County Road 564	*1440
			About 2100 feet downstream of County Road 560	*1451
		Mud Creek	At confluence with Sand Creek	*1398
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1416
			Just upstream of U.S. Route 50	*1420
			Just upstream of West First Street	*1431
			Just upstream of County Road 568	*1440
			Just downstream of U.S. Route 81	*1454
		Slate Creek	At confluence with Sand Creek	*1415
			At City of Newton corporate limits	*1417
		Emma Creek-West Emma Creek	At confluence with Little Arkansas River	*1378
			Just upstream of County Road 580	*1389
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1403
			Just downstream of County Road 570	*1410
		East Emma Creek	At confluence with Emma Creek	*1397
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1403
			Just downstream of County Road 570	*1416
		Middle Emma Creek	Just upstream of Interstate 35	*1456
			Just upstream of County Road 556	*1461
			About 6100 feet upstream of County Road 556	*1468
		Middle Emma Creek Tributary No. 1.	At confluence with Middle Emma Creek	*1457
			About 1000 feet upstream of confluence with Middle Emma Creek.	*1461

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of County Road 556	*1473
		Middle Emma Creek Tributary No. 2.	At confluence with Middle Emma Creek	*1462
			About 5900 feet upstream of confluence with Middle Emma Creek.	*1478
		Halstead Slough	Just upstream of County Road 803	*1389
			Just upstream of Sixth Street	*1393
			About 0.08 mile upstream of Atchison, Topeka and Santa Fe Railway.	*1396
		Sedgwick Ditch	At county boundary	*1377
			About 0.58 miles upstream of Seventh Street	*1381
			About 1.1 miles upstream of Seventh Street	*1388

Maps available for inspection at the Harvey County Courthouse, Newton, Kansas.

Send comments to Honorable Charles Benjamin, Chairman of the County Commission, Harvey County, Harvey County Courthouse, Newton, Kansas 67114.

Maryland	Rock Hall, Town, Kent County	Grays Inn Creek	Downstream corporate limits	*8
			Upstream Rock Hall Road	*12
		Chesapeake Bay	Shoreline at southwestern corporate limits	*11
			Shoreline at northern corporate limits	*9

Maps available for inspection at the Municipal Building, South Main Street, Rock Hall, Maryland.

Send comments to Honorable P. J. Elbourn, Sr., Mayor of Rock Hall, P.O. Box 8, South Main Street, Rock Hall, Maryland 21661.

Massachusetts	Holland, Town, Hampden County	Hamilton Reservoir	Upstream from Sturbridge Road	*686
			Downstream from Mashapaug Road Causeway	*687
			Upstream corporate limits	*690
		Stevens Brook	Confluence with Hamilton Reservoir	*687
			Downstream from Marcey Road (first crossing)	*763
			Downstream from Marcey Road (second crossing)	*776
		May Brook	Confluence with Hamilton Reservoir	*690
			Approximately 2,540 feet upstream from confluence with Hamilton Reservoir.	*736

Maps available for inspection at the Town Hall, Holland, Massachusetts.

Send comments to Honorable Philip Babineau Road, Chairman of the Holland Board of Selectmen, Sturbridge, R.F.D. 2, Box 62, Southbridge, Massachusetts 01550.

New Jersey	Allamuchy, township, Warren County	Musconetcong River	Downstream corporate limits	*609
			Dam (downstream)	*624
			Kenny Road (upstream)	*641

Maps available for inspection at the Office of the Township Clerk, Allamuchy Municipal Building, Allamuchy, New Jersey.

Send comments to Honorable Alfred Walmsley, Mayor of Allamuchy Township, P.O. Box A, Allamuchy, New Jersey 07820.

New Jersey	Allenhurst, borough, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11

Maps available for inspection at the Municipal Building, 125 Crolies Avenue, Allenhurst, New Jersey.

Send comments to Honorable James A. O'Malley, Mayor of Allenhurst, 125 Crolies Avenue, Allenhurst, New Jersey 07711.

New Jersey	Asbury Park, City, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11
		Sunset Lake	Entire shoreline within community	*10
		Lake Wesley	Entire shoreline within community	*10

Maps available for inspection at the City Hall, One Municipal Plaza, Asbury Park, New Jersey.

Send comments to Honorable Ray Kramer, Mayor of Asbury Park, One Municipal Plaza, Asbury Park, New Jersey 07712.

New Jersey	Atlantic City, city, Atlantic County	Atlantic Ocean	Entire shoreline within community	*15
			Shoreline of Absecon Inlet at Atlantic Avenue (extended).	*14
				*13
			Shoreline of Absecon Inlet at Melrose Avenue	*12
			Shoreline of Absecon Inlet at Parkside Avenue (extended).	*10
				*12
			Shoreline of Clan Creek at Massachusetts Avenue (extended).	*12
				*11
			Shoreline of Absecon Channel at Poles Point	
			Shoreline of Absecon Bay at Weakfish Island	
			Shoreline of Great Thorofare at Pleasantville Boulevard.	
			Shoreline of Beach Thorofare at Arizona Avenue (extended).	*10
			Shoreline of Inside Thorofare at Albany Avenue	*10
			Shoreline of Beach Thorofare at Pleasantville Boulevard.	*11

Maps available for inspection at the Office of the City Engineer, City Hall, 1301 Bacharach Boulevard, Atlantic City, New Jersey.

Send comments to Honorable Michael J. Matthews, Mayor of Atlantic City, 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401.

New Jersey	Blairstown, township, Warren County	Paulins Kill	Upstream Vail Road	*318
			Approximately 3,000' upstream of Rubble Dam	*324
			Upstream Lambert Road	*330
			Confluence of Jacksonburgh Creek	*332
			Confluence of Blair Creek	*343
			Upstream corporate limits	*357
		Jacksonburg Creek	Confluence with Paulins Kill	*332
			Upstream New Jersey State Highway Route 94	*363
			Upstream dam	*383
		Blair Creek	Confluence with Paulins Kill	*343

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Gordon Lane	*365
			Upstream corporate limits	*369

Maps available for inspection at the Municipal Building, Stillwater Road, Blairstown, New Jersey.

Send comments to Honorable Carl Race, Mayor of Blairstown Township, P.O. Box 128, Blairstown, New Jersey 07825.

New Jersey	Brigantine, city, Atlantic County	Atlantic Ocean	Entire Atlantic Ocean shoreline within community	*15
			Shoreline of Bonita Tideway at 35th Street (extended)	*10
			Shoreline of Steelman Bay at Travers Place (extended).	*13
			Shoreline of Steelman Bay at 13th Street (extended)	*11

Maps available for inspection at the City Hall, 1417 West Brigantine Avenue, Brigantine, New Jersey.

Send comments to Honorable J. Edward Kline, Mayor of Brigantine, 1417 West Brigantine Avenue, Brigantine, New Jersey 08206.

New Jersey	Evesham (township), Burlington County	Southwest Branch Rancocas Creek.	50 feet upstream from the center of North Elmwood Road.	*50
		Barton Run	50 feet upstream from the center of Taunton Lake Road.	*57
		Tributary No. 1 to Barton Run	At the center of Tuckerton Road	*42
		Tributary No. 2 to Barton Run	At confluence with Barton Run	*46
		Black Run	At the center of Taunton Lake Road	*52
		Tributary to Black Run	200 feet upstream from the center of Kettle Run Road	*60
		Kettle Run	100 feet upstream from the center of Hopewell Road	*126
		South Branch Pennsauken Creek	At the center of Marlton Pike	*73
		Cropwell Brook	100 feet upstream from the center of Conestoga Drive	*65

Maps available for inspection at Municipal Building, 125 E. Main Street, Marlton, New Jersey.

Send comments to Honorable Raymond Brusel, 125 E. Main Street, Marlton, New Jersey 08053.

New Jersey	Hackettstown, town, Warren County	Musconetcong River	Confluence of Trout Brook	*492
			State Route 24 (upstream)	*503
			East Avenue (upstream)	*514
			U.S. Route 46 (upstream)	*522
			Confluence of Hackettstown Brook	*528
			Stephen's Park Road (upstream)	*599
			Upstream corporate limits	*609
		Trout Brook	Confluence with Musconetcong River	*492
			State Route 57 (upstream)	*495
			Hatchery Drive (upstream)	*509
			Hatchery Road (upstream)	*516
			Grand Avenue (upstream)	*529
			Conrail (upstream)	*534
			Prospect Street (upstream)	*564
			U.S. Route 46 (upstream)	*569
			Baldwin Street (upstream)	*581
			Approximately 1,130 feet upstream of Baldwin Street	*610
		Hackettstown Brook	Confluence with Musconetcong River	*528
			Willow Grove Street (upstream)	*531
			Plane Street (upstream)	*536
			Maple Avenue (upstream)	*540
			Franklin Street (upstream)	*542
			Private Drive (downstream), approximately 1,000 feet upstream of Franklin Street.	*547

Maps available for inspection at the Office of the Town Engineer located in the Municipal Building, 215 Stiger Street, Hackettstown, New Jersey.

Send comments to Honorable James Smith, Mayor of Hackettstown, 215 Stiger Street, Hackettstown, New Jersey 07840.

New Jersey	Little Egg Harbor, township, Ocean County	Mill Branch	At confluence of Goffords Mill Branch	*11
			Nugentown Road (upstream)	*12
		Giffords Mill Branch	At confluence with Mill Branch	*11
			Gifford Lane (upstream)	*14
			Otis Bog Road (upstream)	*18
		Willis Creek	At Atlantic Boulevard	*8
			Center Street (upstream)	*21
		Atlantic Ocean	Little Egg Harbor	*8
			Great Bay	*9
			Mullica River	*9

Maps available for inspection at the Municipal Building, Gifford Road and Route 9, Tuckerton, New Jersey.

Send comments to Honorable F. Richard Chiovarou, Mayor of Little Egg Harbor, P.O. Box 262, Tuckerton, New Jersey 08087.

New Jersey	Loch Arbour, village, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11

Maps available for inspection at the Municipal Building, 550 Main Street, Loch Arbour, New Jersey.

Send comments to Honorable John L. Reng, Mayor of Loch Arbour, 550 Main Street, Loch Arbour, New Jersey 07711.

New Jersey	Longport, borough, Atlantic County	Atlantic Ocean	Entire shoreline from northeastern cprporate limits to Point Drive (extended).	*15
			Entire shoreline of Risley Channel and Beach Thorofare from Point Drive (extended) to northeastern corporate limits.	*10

Maps available for inspection at the Municipal Building, 2301 Atlantic Avenue, Longport, New Jersey.

Send comments to Honorable Leon Leopardi, Mayor of Longport, 2301 Atlantic Avenue, Longport, New Jersey 08403.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Mansfield, township, Warren County	Musconetcong River	Downstream corporate limits	*383
			Anthony Road (upstream side)	*395
			Penwell Dam (upstream side)	*416
			Stephensburg Road (upstream side)	*435
			Ruth Lane (upstream side)	*443
			Kings Highway (upstream side)	*468
			Newburgh Road (upstream side)	*484
			Upstream corporate limits	*492
		Pohatcong Creek	Downstream corporate limits	*473
			Willever Lake Dam (upstream side)	*494
			Hoffman Road (upstream side)	*504
			Jackson Valley Road, downstream crossing (upstream side).	*545
				*594
			Mitchell Road (ustream side)	*667
			Jackson Valley Road, upstream crossing (upstream side).	*714
				*780
			Smith Road (upstream crossing)	
			Jane Chapel Road (downstream side)	
		Hances Brook	Confluence with Musconetcong River	*443
			Watters Road (upstream side)	*466
			Hazen Road (upstream side)	*477
			Highland Avenue (upstream side)	*496
		Trout Brook	Confluence with Musconetcong River	*492
			Hatchery Road	*509

Maps available for inspection at the Municipal Building, Port Murray, New Jersey.
Send comments to Honorable William Mannon, Mayor of Mansfield Township, Municipal Building, Box 105, Port Murrary, New Jersey 07865.

New Jersey	Medford (township) Burlington County	Southwest Branch Rancocas Creek.	60 feet upstream from center of South Main Street	*33
		Sharps Run	50 feet upstream from center of Jennings Road	*40
		Barton Run	50 feet upstream from center of Tuckerton Road	*44
		Tributary No. 1 to Barton Run	200 feet upstream from confluence with Barton Run	*42
		Haynes Creek	50 feet upstream from center of Elm Drive	*41
		Ballinger Run	50 feet upstream from center of Ramblewood Lane	*47
		Tributary to Ballinger Run	50 feet upstream from center of South Lakeside Drive East.	*49
		Blue Lake Run	100 feet upstream from center of Berlin Road	*50
		Mimosa Lake Run	50 feet upstream from center of Shanty Dam Drive	*68
		Little Creek	150 feet upstream from center of Church Road	*24
		Skeet Run	25 feet upstream from center of Chairville Road	*34

Maps available for inspection at Office of the Township Planners, 19 N. Main Street, Medford, New Jersey.
Send comments to Honorable David C. Hartnett, 19 N. Main Street, Medford, New Jersey 08055.

New Jersey	North Plainfield, borough, Somerset County	Green Brook	At downstream corporate limits	*58
			Upstream of West End Avenue	*67
			Upstream of Duer Street	*86
			Upstream of Norwood Avenue	*104
			At upstream corporate limits	*128
		Stony Brook	At confluence with Green Brook	*63
			Upstream of Rockview Terrace	*74
			Downstream of Grove Street	*93
			At upstream corporate limits	*114

Maps available for inspection at the Municipal Building, 263 Somerset Street, North Plainfield, New Jersey.
Send comments to Honorable Steven Novack, Mayor of North Plainfield, 263 Somerset Street, North Plainfield, Nwe Jersey 07060.

New Jersey	Piscataway, township, Middlesex County	Raritan River	Downstream of State Route 18	*16
			Upstream of Fieldville Dam	*30
		Ambrose Brook	Upstream of Possumtown Road (first crossing)	*43
			Upstream of confluence of Dotys Brook	*51
			Upstream of Lake Nelson Dam	*62
			Upstream of stelton Road	*78
		Dotys Brook	Downstream of South Randolphville Road	*50
			Upstream of Earthen Dam	*63
			Upstream of South Washington Avenue	*68
			Downstream of Stelton Road	*85
		Bound Brook	Upstream of South Avenue	*50
			Upstream of New Market Lake Dam	*58
			Downstream of New Brunswick Avenue	*61
		Bonygutt Brook	Downstream of Hazelwood Place	*58
			Upstream of Chestnut Place	*63
			Upstream of Leslie Avenue	*66

Maps available for inspection at the Municipal Building, Hoes Road and Sidney Road, Piscataway, New Jersey.
Send comments to Honorable Robert G. Smith, Mayor of Piscataway Township, Municipal Building, Hoes Road and Sidney Road, Piscataway, New Jersey 08854.

New Jersey	Point Pleasant Beach, borough, Ocean County	Atlantic Ocean	Entire shoreline within community	*13
		Manasquan	From approximately 850 feet east of Ocean Avenue, extended to Conrail Bridge.	*10
			From Conrail bridge to Orchard Avenue, extended	*8

Maps available for inspection at the Municipal Building, 416 New Jersey Avenue, Point Pleasant Beach, New Jersey.
Send comments to Honorable Daniel J. Hennessey, Mayor of Point Pleasant Beach, 416 New Jersey Avenue, Point Pleasant Beach, New Jersey 08742.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Seaside Heights, borough, Ocean County	Atlantic Ocean	Entire shoreline within Community	*13
		Barnegat Bay	Entire shoreline within Community	*6

Maps available for inspection at the Borough Hall, Boulevard and Somerset Avenue, Seaside Heights, New Jersey.

Send comments to Honorable George B. Tompkins, Mayor of Seaside Heights, P.O. Box 38, Seaside Heights New Jersey 08751.

New Jersey	Ventnor, City, Atlantic County	Atlantic Ocean	Entire Atlantic Ocean Shoreline within community	*15
			Shoreline of Beach Thorofare at Harvard Avenue, extended.	*10
			Entire shoreline of Shelter Island	*11

Maps available for inspection at the City Hall, Cambridge and Atlantic Avenues, Ventnor, New Jersey.

Send comments to Honorable Raymond W. Hart, Mayor of Ventnor, Cambridge and Atlantic Avenues, Ventnor, New Jersey 08406.

New Mexico	City of Albuquerque, Bernalillo County	Rio Grande	Just upstream of Rio Bravo Boulevard	*4,931
			Just downstream of Barelas Bridge	*4,945
		Rio Grande (east overbank)	Approximately 1,200 feet upstream of Interstate Highway 25.	*4,901
		Arroyo de las Calabacillas	Just upstream of Golf Course Road	*5,145
		Tijeras Arroyo	Just upstream of the Atchison-Topeka and Santa Fe Railroad.	*4,944
			Just upstream of Broadway Boulevard	*4,982
			Just downstream of Four Hills Road	*5,546

Maps available for inspection at Municipal Development Department, Fourth Floor, City Hall, 400 Marquette Avenue, N.W., Albuquerque, New Mexico 87103.

Send comments to Mayor Harry E. Kinney, Mr. Carl Roldolf, Director, Municipal Development Department or Mr. Frank Kleinhenz, City Administrator, City Hall, P.O. Box 1293, Albuquerque, New Mexico 87103.

New Mexico	Unicorporated Areas of Bernalillo County	Rio Puerco	Just downstream of Interstate Highway 40	*5,259
		Unnamed Arroyo No. 1	Just downstream of Interstate Highway 40	*5,266
			Just upstream of Frontage Road	*5,282
		San Pedro Creek	Just upstream of extension of Erickson Road (Dip Section).	*6,633
			Just upstream of State Highway 14	*6,798
		Frost Arroyo	Just upstream of Private Drive (approximately 5,500' above confluence).	*6,644
			Just upstream of Private Drive (approximately 7,760' above confluence).	*6,664

Maps available for inspection at County Clerk's Office, County Courthouse Annex, 505 Central N.W., Albuquerque, New Mexico 87102.

Send comments to Mr. Alex Abeyta, County Manager or Mr. Norman McNew, County Administrative Office Building, 620 Lomas Street, N.W., Albuquerque, New Mexico 87102.

New York	Bayville, Village Nassau County	Long Island Sound	Entire shoreline within community	*17
			Oyster Bay Harbor shoreline and Mill Neck Creek shoreline from Bayville Bridge to Bayview Avenue extended.	*13
		Mill Neck Creek	Mill Neck Creek shoreline from Bayview Avenue extended to and including the Oak Neck Creek shoreline within community.	*12

Maps available for inspection at the Village Hall, 34 School Street, Bayville, New York.

Send comments to Hon. Victor Siegel, Mayor of Bayville, Village Hall, 34 School Street, Bayville, New York 11709.

New York	Canadice, Town, Ontario County	Canadice Outlet	Downstream corporate limits	*1,089
			Upstream of Hollow Road	*1,093
			Upstream of Purcell Hill Road	*1,100
		Affolter Gully	Confluence with Honeoye Lake	*806
			Confluence with Tributary 5-B	*819
			Approximately 600 feet upstream of Tributary 5-B confluence.	*834
		Tributary T-2	Confluence with Honeoye Lake	*806
			Upstream of Access Road	*814
			Approximately 325 feet upstream of Access Road	*842
		Tributary 5-B	Confluence with Affolter Gully	*819
			Approximately 490 feet upstream of Affolter Gully confluence.	*841
		Tributary T-7	Confluence with Honeoye Lake	*806
			Upstream of Access Road	*812
			Approximately 750 feet upstream of Access Road	*837
		Tributary T-10	Confluence with Honeoye Lake	*806
			Upstream of Private Road	*825
			Approximately 270 feet upstream of Private Road	*842
		Tributary T-15	Confluence with Honeoye Lake	*806
			Upstream of Access Road	*820
			Approximately 200 feet upstream of Access Road	*829
		Tributary T-16	Confluence with Honeoye Lake	*806
			Upstream of Private Road	*816
			Approximately 270 feet upstream of Private Road	*832
		Tributary T-17	Confluence with Honeoye Lake	*806
			Downstream of Private Road	*820
			Upstream of Private Road	*825
		Honeoye Lake	Entire shoreline in the community	*806
		Hemlock Lake	Entire shoreline in the community	*908

Maps available for inspection at the Town Hall, County Route 37, Springwater, New York.

Send comments to Honorable Sheryl Volpe, Supervisor, Town of Canadice, Box 268A, Springwater, New York 14560.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Cortland, City Cortland County	Tioughnioga River	Downstream corporate limits	*1,092
			Downstream U.S. Route 11	*1,097
			At confluence of East and West Branches Tioughnioga River.	*1,100
		East Branch Tioughnioga River	At confluence with Tioughnioga River	*1,100
			Upstream corporate limits	*1,103
		West Branch Tioughnioga River	Approximately 1,400' downstream of Conrail	*1,100
			Upstream of Rickard Street	*1,109
			Confluence of Dry Creek	*1,115
			Upstream corporate limits	*1,117
		Otter Creek	Confluence with West Branch Tioughnioga River	*1,115
			Downstream Arthur Avenue	*1,120
			Upstream State Route 222	*1,129
			Upstream corporate limits	*1,138
		Dry Creek	Confluence with West Branch Tioughnioga River	*1,115
			Upstream Main Street	*1,120
			Upstream Madison Street	*1,130
			Upstream corporate limits	*1,145

Maps available for inspection at the City Hall, 25 Court Street, Cortland, New York.

Send comments to Honorable Edmund Hart, Mayor of the City of Cortland, City Hall, 25 Court Street, Cortland, New York 13045.

New York	Cortlandville, Town, Cortland County	Tioughnioga River	Downstream corporate limits	*1,072
			Confluence of Trout Brook	*1,089
			Confluence of East and West Branches of Tioughnioga River.	*1,100
		East Branch Tioughnioga River	Confluence with Tioughnioga River	*1,100
			Upstream corporate limits	*1,106
		West Branch Tioughnioga River	Downstream corporate limits	*1,117
			Upstream corporate limits	*1,122
		Tributary A to Tioughnioga River	Confluence with Tioughnioga River	*1,085
			Downstream of East Blodgett Mills Road	*1,111
			Approximately 1,800' upstream of East Blodgett Mills Road.	*1,206
		Tributary B to Tioughnioga River	At confluence with Tioughnioga River	*1,091
			Upstream of U.S. Route 11	*1,121
			Downstream of Interstate 81	*1,160
		Blue Creek	Confluence with Dry Creek	*1,183
			Upstream of Kinney Gulf Road	*1,202
		Dry Creek	Corporate limits	*1,145
			Confluence of Blue Creek	*1,183
			Downstream of Kinney Gulf Road	*1,209
		Mosquito Creek	Downstream corporate limits of Village of McGraw	*1,207
			Approximately 3,000' upstream of corporate limits	*1,278
			Upstream of McGraw North Road (1st crossing)	*1,371
			Upstream of Heath Road	*1,407
			Approximately 1,000' downstream of corporate limits	*1,487
			Upstream corporate limits	*1,518
		Otter Creek	Downstream corporate limits	*1,138
			Approximately 500' upstream of McLean Road	*1,168
		Smith Brook	Downstream corporate limits	*1,172
			Approximately 2,000' upstream of corporate limits	*1,200
			Upstream corporate limits	*1,271
		Trout Brook	Confluence with Tioughnioga River	*1,089
			Upstream of Interstate 81 Northbound	*1,095
			Downstream corporate limits of Village of McGraw	*1,125
			Upstream corporate limits	*1,204

Maps available for inspection at the Town Hall, 15 Terrace Road, Cortlandville, New York.

Send comments to Honorable Stanley Nadolski, Supervisor of the Town of Cortlandville, Town Hall, 15 Terrace Road, Cortlandville, New York 13045.

New York	East Bloomfield, Ontario County	Mud Creek	Extreme downstream corporate limits	*682
			Brace Road (upstream side)	*731
			North Bloomfield Road (upstream side)	*766
			Abandoned railroad (upstream side)	*812
			U.S. Route 20/State Route 5 (upstream side)	*836

Maps available for inspection at the Town Hall, Main Street, East Bloomfield, New York.

Send comments to Honorable William Compton, Supervisor of the Town of East Bloomfield, R.D. 2, Box 203A, Holcomb, New York 14469.

New York	Hadley, Town, Saratoga County	Hudson River	Downstream corporate limits	*559
			Downstream State Route 9N	*560
			Confluence of Sacandaga River	*561

Maps available for inspection at the Town Hall, 11418 Stoney Creek Road, Hadley, New York.

Send comments to Honorable Emma L. Smead, Town Supervisor, Town Hall, 11418 Stoney Creek Road, Hadley, New York 12835.

New York	Harriman, Village, Orange County	Ramapo River	At downstream corporate limits	*552
			Approximately 200' upstream of State Route 17	*527
			Approximately 200' upstream of River Road	*537
			Approximately 150' upstream of Conrail	*552
			Upstream corporate limits	*564
		Tributary 1	Downstream corporate limits	*522
			Upstream corporate limits	*522

Maps available for inspection at the Village Hall, in the Clerk's Office, Harriman, New York.

Send comments to Honorable David E. Clark, Mayor of Harriman, Village Hall, P.O. Box 337, Harriman, New York 10926.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Homer, Town, Cortland County	East Branch Tioughnioga River	Downstream corporate limits	*1,106
			Upstream East Homer crossing	*1,125
			Upstream of Young's crossing	*1,136
		West Branch Tioughnioga River	Downstream corporate limits	*1,131
			Upstream of Conrail	*1,133
			At confluence of Cold Brook	*1,143
			Upstream of Little York Dam	*1,155
			Upstream corporate limits	*1,156
		Factory Brook	Downstream corporate limits	*1,143
			Upstream Brake Hill Road	*1,181
			Upstream of downstream crossing of State Route 41	*1,198
			Upstream of upstream crossing of State Route 41	*1,229
			Upstream corporate limits	*1,299
		Cold Brook	Confluence with West Branch Tioughnioga River	*1,143
			Upstream State Route 281	*1,159
			Upstream Ayers Road	*1,194
			Downstream Cold Brook Road	*1,234
		Albright Creek	Confluence with East Branch Tioughnioga River	*1,125
			Upstream State Route 13	*1,141
			Approximately .6 mile upstream State Route 13	*1,194
		Tributary A to Factory Brook	Confluence with Factory Brook	*1,148
			Upstream State Route 41	*1,192
			Approximately .26 mile upstream of State Route 41	*1,214
		Tributary B to Factory Brook	Confluence with Factory Brook	*1,216
			Upstream State Route 41	*1,245
			Approximately 800 feet upstream of State Route 41	*1,260

Maps available for inspection at the Town Hall, 31 North Main Street, Homer, New York.

Send comments to Honorable William Wright, Supervisor, Town of Homer, Town Hall, 31 North Main Street, Homer, New York 13077.

New York	Homer, Village, Cortland County	Factory Brook	Confluence with West Branch Tioughnioga River	*1,130
			Upstream of Conrail	*1,136
			Upstream corporate limits	*1,143
		West Branch Tioughnioga River	Downstream of State Route 281	*1,120
			Upstream of Albany Street	*1,126
			Upstream of Water Street	*1,129
			Upstream of Conrail	*1,133

Maps available for inspection at the Town Hall, 31 North Main Street, Homer, New York.

Send comments to Honorable Harry Calale, Mayor of the Village of Homer, Town Hall, 31 North Main Street, New York 13077.

New York	Ilion, Village, Herkimer County	Mohawk River	Upstream corporate limits	*395
			Upstream Central Avenue	*395
			Downstream corporate limits	*395

Maps available for inspection at the Village Clerk's Office, Village Hall, 45 Morgan Street, Ilion, New York.

Send comments to Honorable Charles Haggerty, Village Hall, 45 Morgan Street, Ilion, New York 13357.

New York	Lake Luzerne, Town, Warren County	Hudson River	Downstream of Palmers Falls Dam	*447
			Downstream of Curtis Mill Dam	*535
			Downstream of State Route 9N	*560
			Confluence of Sacandaga River	*561

Maps available for inspection at the Town Hall, 2143 Main Street, Lake Luzerne, New York.

Send comments to Honorable Victor R. Grant, Supervisor of Lake Luzerne, Town Hall, 2143 Main Street, Lake Luzerne, New York 12846.

New York	Munnsville, Village, Madison County	Oneida Castle	Downstream corporate limits	*632
			Upstream State Route 46	*664
			Upstream corporate limits	*688

Maps available for inspection at the residence of Honorable J. Jack Kern, Mayor, 5222 South Main Street, Munnsville, New York.

Send comments to Honorable M. Jack Kern, Mayor, 5222 South Main Street, Munnsville, New York 13409.

New York	Oneida Castle, Village, Oneida County	Oneida Creek	Downstream corporate limits	*429
			Upstream Conrail	*444
			Upstream Middle Road	*451
			Upstream corporate limits	*453

Maps available for inspection at the residence of Ms. Florence Sweatman, Village Clerk, 97 Seneca Street, Oneida, New York.

Send comments to Honorable James Campbell, Mayor, 17 West Second Street, Oneida Castle, New York 13421.

New York	Oriskany, Village, Oneida County	Oriskany Creek	Conrail (downstream side)	*419
			Downstream State Route	*422
			Upstream corporate limits	*429
		Mohawk River	Downstream corporate limits (extended)	*418
			Upstream corporate limits (extended)	*419

Maps available for inspection at the Village Clerk's Office, Municipal Building, Oriskany, New York.

Send comments to Honorable Robert J. Moore, Mayor of Oriskany, Municipal Building, Oriskany, New York 13424.

New York	Paris, Town, Oneida County	Sauquoit Creek	Downstream corporate limits	*737
			Upstream 1st dam	*758
			Upstream Pinnacle Road	*809
			Upstream Holman City Road	*877

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream State Route 8 culvert (1st crossing)	*897
			Downstream corporate limits of Village of Clayville	*930
			Upstream corporate limits of Village of Clayville	*1,050
			Upstream State Route 8 (2nd crossing)	*1,071
			Upstream State Route 8 (3rd crossing)	*1,096
			Upstream State Route 8 (4th crossing)	*1,151
			Upstream Reservoir Road	*1,179
			Approximately 0.75 mile upstream of Reservoir Road	*1,222
Maps available for inspection at the Town Clerk's Office, Sauquoit Valley Elementary School, Sulphur Spring Road, Sauquoit, New York.				
Send comments to Honorable Mitchell L. Fadel, Town Supervisor, P.O. Box 288, Clayville, New York 13322.				
New York	Schenectady, City, Schenectady County	Mohawk River	At downstream corporate limits	*226
			At upstream corporate limits	*232
Maps available for inspection at the City's Clerk's Office, City Hall, Jay Street, Schenectady, New York.				
Send comments to Honorable Frank J. Duci, Mayor of Schenectady, City Hall, Jay Street, Schenectady, New York 12305.				
New York	Sherrill, City, Oneida County	Oneida Creek	Downstream corporate limits	*454
			Downstream of Kenwood Avenue	*470
			Upstream corporate limits	*486
Maps available for inspection at the City Hall, 601 Sherrill Road, Sherrill, New York.				
Send comments to Honorable Wallace Glasgow, City Manager, 601 Sherrill Road, Sherrill, New York 13461.				
New York	Stockbridge, Town, Madison County	Oneida Creek	Downstream approximately 620 feet from County Road.	*605
			Upstream corporate limits	*635
Maps available for inspection at the residence of Honorable Charles Young, Town Supervisor, 6065 City Manager, Williams Road, Munnsville, New York				
Send comments to Honorable Charles Young, Town Supervisor, 6065 Williams Road, Munnsville, New York 13409.				
New York	Utica, City, Oneida County	Mohawk River	Downstream corporate limits	*407
			Downstream North Genesee Street	*409
			Upstream North-South Arterial Highway	*414
		Sauquoit Creek	Downstream corporate limits	*487
			Upstream State Route 5 East	*508
			Upstream third spillway	*520
			Upstream Genesee Street	*534
			Upstream third Conrail crossing	*550
			Upstream corporate limits	*567
		Reall Creek	Confluence with New York State Barge Canal	*409
			Upstream North Genesee Street	*418
			Upstream New York State Thruway	*424
			Upstream Trenton Avenue	*434
			Upstream corporate limits	*446
		Nail Creek	Confluence with Mohawk River	*414
			Upstream Alder Street	*481
			Downstream second Conrail crossing	*502
			Approximately 500' upstream of Genesee Street	*543
			Upstream Oneida Street	*617
			Upstream corporate limits	*627
		Starch Factory Creek	Confluence with Mohawk River	*407
			Downstream East-West Arterial Highway	*417
			Upstream of second Conrail crossing	*439
			Upstream Rutger Street	*453
			Upstream Ludlow Ave	*489
			Upstream Albany Street	*511
			Approximately 2,800 feet upstream of Albany Street	*550
			Upstream South Park Drive	*581
			Upstream corporate limit	*594
		Tributary to Sauquoit Creek	Downstream corporate limits	*516
			Upstream corporate limits	*516
Maps available for inspection at the City Engineer's Office, City Hall, 1 Kennedy Plaza, Utica, New York.				
Send comments to Honorable Stephen Pawlings, Mayor, 1 Kennedy Plaza, Utica, New York 13502.				
New York	Whitestown, Town, Oneida County	Mohawk River	Downstream corporate limits	*414
			Upstream Hayes Road	*417
			Upstream corporate limits	*420
		Sauquoit Creek	Confluence with Mohawk River	*414
			Downstream Oriskany Road	*425
			Upstream corporate limits	*455
		Mud Creek	Confluence with Saquoit Creek	*449
			Upstream corporate limits	*457
		Oriskany Creek	Confluence with Mohawk River	*419
			Downstream Pleasant Valley Road	*440
			At New York State Thruway	*459
			Upstream County Route C	*481
			Upstream corporate limits	*504
		Deans Creek	Confluence with Oriskany Creek	*471
			Upstream corporate limits	*482
Maps available for inspection at the Town Clerk's Office, 8 Park Avenue, Whitesboro, New York 13492.				
Send comments to Honorable William Goodman, County Supervisor, 8 Park Avenue, Whitsboro, New York 13492.				
Ohio	(V) Athalia, Lawrence County	Ohio River	Within the corporate limits	*558
Maps available for inspection at the Village Hall, Athalia, Ohio. Send comments to Honorable Lee Roy Ramey, Mayor, Village of Athalia, Village Hall, Athalia, Ohio 45669.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Cheshire, Gallia County	Ohio River	Within the community	*574
Maps available for inspection at the Village Hall, Cheshire, Ohio. Send comments to Honorable Scott Lucas, Mayor, Village of Cheshire, Village Hall, Cheshire, Ohio 45620.				
Ohio	(V) Dillonvale, Jefferson County	Short Creek	At downstream corporate limit	*733
			At upstream corporate limit	*741
		Piney Fork	About 1350 feet downstream of State Highway 150	*732
			At upstream corporate limit	*741
Maps available for inspection at the Mayor's Office, Village Hall, Main Street, Dillonvale, Ohio. Send comments to Honorable Silvio Banal, Mayor, Village of Dillonvale, Village Hall, Main Street, Dillonvale, Ohio 43917.				
Ohio	(V) Groveport, Franklin County	Big Walnut Creek	Just upstream of old Groveport Road	*726
			About 0.2 mile upstream of Chessie System	*728
		Little Walnut Creek	About 1.38 miles downstream of Golf Course Drive	*726
			Just downstream of Richardson Road	*732
		Tributary J	About 0.27 mile upstream of mouth	*739
			About 0.4 mile upstream of mouth	*470
Maps available for inspection at Village Hall, 605 Cherry Street, Groveport, Ohio. Send comments to Honorable Robert Degenhart, Mayor, Village of Groveport, Village Hall, 605 Cherry Street, Groveport, Ohio 43125				
Ohio	(V) Hanging Rock, Lawrence County	Ohio River	At downstream corporate limits	*544
			At upstream corporate limits	*545
Maps available for inspection at the Village Hall, Railroad Street, Hanging Rock, Ohio. Send comments to Honorable Albert Hopper, Mayor, Village of Hanging Rock, Village Hall, Railroad Street, Hanging Rock, Ohio 45635.				
Ohio	(V) Higginsport, Brown County	Ohio River	Within corporate limits	*511
Maps available for inspection at the Village Hall, Jackson Street, Higginsport, Ohio. Send comments to Honorable Danny Brown, Mayor, Village of Higginsport, Village Hall, Jackson Street, Higginsport, Ohio 45131.				
Ohio	(C) Portsmouth Scioto County	Ohio River	About 0.8 mile downstream of U.S. Route 23	*536
			About 0.7 mile upstream of the Chessie System	*538
Maps available for inspection at the Engineer's Office, 728 Second Street, Portsmouth, Ohio. Send comments to Honorable Richard Roberts, City Manager, City of Portsmouth, 728 Second Street, Portsmouth, Ohio 45662.				
Ohio	(V) Racine Meigs County	Ohio River	About 1.0 mile upstream of confluence of Wolf Run	*582
			About 1.6 miles upstream of confluence of Wolf Run	*583
Maps available for inspection at the Mayor's Office, Village Hall, Third Street, Racine, Ohio. Send comments to Honorable Charles Pyles, Mayor, Village of Racine, Village Hall, Third Street, Racine, Ohio 45771.				
Pennsylvania	Delta, Borough, York County	Scott Creek	Downstream corporate limits	*362
			Upstream of Township Route 798/Bunker Hill Avenue	*380
			Upstream of Legislative Route A-342	*414
Maps available for inspection at the Borough Building, Delta, Pennsylvania. Send comments to Honorable Harry Robinson, Mayor of Delta, P.O. Box 288, Delta, Pennsylvania 17314				
Pennsylvania	Franklin, township Adams County	Marsh Creek	Confluence of Mummasburg Run	*537
			Seven Stars Road (upstream)	*546
			Fairview Fruit Road (upstream)	*600
			Hilltown Road (upstream)	*633
			Flohrs Church Road (upstream)	*655
			Cashtown road (downstream)	*730
		Mammasburg Run	Confluence with Marsh Creek	*537
			Legislative Route 01002 (upstream)	*545
			1st Farm Lane (upstream)	*557
			2nd Farm Lane (upstream)	*572
			Hilltown Road (downstream)	*586
		Marsh Creek Tributary	Confluence with Marsh Creek	*539
			Lincoln Highway (upstream)	*550
			2nd crossing Chessie System (upstream)	*568
			Faram Lane (upstream)	*583
			Legislative Route 01018 (upstream)	*609
			Old U.S. Route 30 (downstream)	*638
		Little Marsh Creek	Cashtown Road (downstream)	*613
			Confluence of Little Marsh Creek Tributary	*616
		Little Marsh Creek Tributary	Confluence with Little Marsh Creek	*616
			Poplar Springs Road (downstream)	*663
Maps available for inspection at the Franklin Township Building. Send comments to Honorable Larry Dillon, Chairman of the Franklin Board of Supervisors, R.D. 1, Orrtanna, Pennsylvania 17353.				
Pennsylvania	Gettysburg, borough, Adams County	Rock Creek	Downstream corporate limits	*478
			Upstream corporate limits	*481
		Stevens Run	Confluence with Rock Creek	*489
			Upstream North Stratton Street	*500
			Downstream Buford Avenue	*514
			Upstream footbridge	*523
Maps available for inspection at the Municipal Building, Gettysburg, Pennsylvania. Send comments to Honorable Willis L. Weikert, Mayor of Gettysburg, P.O. Box 188, Gettysburg, Pennsylvania 17325.				
Pennsylvania	South Heights borough, Beaver County	Ohio River	Entire shoreline within community	*711
Maps available for inspection at the Borough Hall, South Heights, Pennsylvania. Send comments to Honorable Rick Tranter, Mayor of South Heights, Box 302, South Heights, Pennsylvania 15081.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Spring Grove, borough, York County	Codorus Creek	Downstream corporate limits	*445
			Downstream State Route 116	*450
			Upstream Dam	*458
Maps available for inspection at the Office of the Borough Secretary, 31 South East Street, Spring Grove, Pennsylvania.				
Send comments to Honorable Shirley Glass, Council President, 112 West Hoke Street, Spring Grove, Pennsylvania 17362.				
Commonwealth of Puerto Rico.	Rio Camuy Basin	Rio Camuy	At the Intersection of Puerto Rico Highway 119 and river.	*4.7
		Atlantic Ocean	At the mouth of Rio Camuy	*1.6
Maps available for inspection at Planning Board, Minillas Government Center, D-Diego Avenue, P.O. Box 41119, San Juan, Puerto Rico.				
Send comments to Honorable Carlos Romero Barcedo. La Fortaleza, San Juan, Puerto Rico 00902.				
Commonwealth of Puerto Rico.	Rio Coamo Basin	Rio Coamo	At the intersection of an access road connecting Puerto Rico Highway 545 and 153 and river..	*38.9
		Rio Descalabrado	At the intersection of Puero Rico Highway 536 and an access road, approximately 0.45 kilometer north along Puerto Rico Highway 536 from Ponce Guayama Railroad.	*15.9
		Caribbean Sea	South and Puerto Rico Highway 537 approximately 1.2 kilometers southwest along Puerto Rico Highway 1.	*2.0
Maps available for inspection at Planning Board, Minillas Government Center, D-Diego Avenue, P.O. Box 41119, San Juan, Puerto Rico.				
Send comments to Honorable Carlos Romero Barcelo, La Fortaleza, San Juan, Puerto Rico 00902.				
Commonwealth of Puerto Rico.	Rio Guanajibo Basin	Rio Guanajibo	10 meters upstream from the center of Puerto Rico Highway 102 (Avenida Comercio).	*3.0
			At the Intersection of Puerto Rico Highway 114 and river.	*20.3
			10 meters downstream from the center of Puerto Rico Highway 119.	*45.5
			30 meters downstream from the center of Puerto Rico Highway 368.	*94.0
		Quebrada Mendoza	At the Intersection of Puerto Rico Highway 312 and Calle Baldoriott.	*22.1
		Atlantic Ocean	At the mouth of Rio Guanajibo	*1.8
Maps available for inspection at planning Board, Minillas Government Center, D-Diego Avenue, P.O. Box 41119, San Juan, Puerto Rico.				
Send comments to Honorable Carlos Romero Barcelo, La Fortaleza, San Juan, Puerto Rico 00902.				
South Carolina	Unincorporated areas of Berkeley County	Ancrum Swamp Limehouse Branch	Just upstream of State Route 62 (Ladson Road)	*15
			Approximately 300 feet at downstream of confluence of Stroberfield Branch.	*20
		Cypress Swamp	Just upstream of Interstate Highway 26	*29
			Just downstream of U.S. Highway 176	*37
		Back River	At confluence of Canterhill Branch	*11
		California Branch	Just upstream of Seaboard Coastline Railroad	*24
			Just downstream of Whitesville Road	*71
		Canterhill Branch	Just downstream of Seaboard Coastline Railroad	*14
			Just downstream of Cypress Garden Road (State Highway 9).	*19
		Durham and Chicken Creek	At Cypress Garden Road (State Road 244) (Backwater from West Branch Cooper River).	*7
		Felder Branch	Just upstream of State Highway 16	*52
			Just downstream of New Hope Road	*63
		Fosters Creek	Just upstream of Liberty Hall Road	*12
		Huckhole Swamp	Just upstream of the Road located along the County Line.	*13
			Just upstream of the First County Road located downstream of State Route 567.	*18
		Laurel Swamp	Approximately 200 feet at downstream of northbound U.S. Highway 52 (downstream lane).	*15
			Just downstream of U.S. Highway 17-A	*43
			Just upstream of Lakewood Road	*70
		Miller Dam Branch	Approximately 150 feet downstream of State Highway 16.	*42
			Approximately 250 feet upstream of New Hope Road	*54
			Just downstream of State Road 275	*75
		Molly Branch	Just upstream of Old U.S. Highway 52	*15
		Sandy Run Creek	Just downstream of State Highway 16	*38
			Just downstream of U.S. Highway 176	*54
		Sawmill Branch	Just downstream of eastbound lane of Interstate Highway 26.	*60
		Sophia Swamp	Just upstream of Pine Grove Road (State Road 667)	*14
		Stroberfield Branch	Just Downstream of North Frontage Road of Interstate Highway 26.	*49
		Unnamed Tributary to Back River	Just downstream of Cypress Garden Road (State Highway 9).	*9
			Just upstream of Old U.S. Highway 52	*16
		West Branch of the Cooper River	At Seaboard Coast Line Railroad	*7
			At confluence of Molly Branch	*8
			Just downstream of State Highway 17-A	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Unnamed Tributary to West Branch of Cooper River.	Just downstream of Old U.S. Highway 52	*18
		Atlantic Ocean/Wando River	At State Highway 41	*11
			At confluence of Beresford Creek and Wando River	*12
			At Cainhoy Road (extended)	*13
		Atlantic Ocean/Cooper River	At confluence of Clouter Creek and Cooper River	*13
		Atlantic Ocean/Back River	Just upstream of State Highway 503	*11
		Atlantic Ocean/Foster Creek	At Ghetto Road	*10
Maps available for inspection at Planning Commission Administrator's Office, 223 North Live Oak Drive, Moncks Corner, South Carolina 29461.				
Send comments to Mr. Johnnie Flynn, County Supervisor, or Mr. E. Nick Bruce, Administrators of Planning Commission, 223 North Live Oak Drive, Moncks Corner, South Carolina 29461.				
South Carolina	Unincorporated areas of Charleston County	Atlantic Ocean/South Santee River.	Just downstream of U.S. Highways 17 and 701	*14
		Atlantic Ocean	At the confluence of Jeremy Creek with the Intracoastal Waterway near the Town of McClellanville.	*17
			At the intersection of U.S. Highways 17 and 701 and State Highway 1335.	*12
			At the intersection of State Highway 51 and Porcher Bluff Road.	*10
		Atlantic Ocean/Wando River	Just downstream of State Highway 41 along the north bank of the river.	*11
			Just downstream of State Highway 85	*9
		Atlantic Ocean/Charleston Harbor	At the intersection Wampler Street and Sterling Drive	*14
			At the intersection of Beauregard Street and Clear View Drive.	*14
		Atlantic Ocean/James Island Creek.	Just upstream of Harbor View Road	*16
		Atlantic Ocean/Ashley River	Just upstream of State Highway 7	*11
			At the intersection of Hutton Place and Ashley Hall Road.	*9
			Just upstream of Seaboard Coastline Railroad	*9
		Atlantic Ocean/Stono River	Just downstream of State Highway 700	*12
			Just downstream of State Highway 20 (John's Island Road).	*9
		Atlantic Ocean/Rantowles Creek	Just upstream of Seaboard Coastline Railroad	*9
		Atlantic Ocean/Wadmalaw River	Approximately 1.95 miles southeast of the intersection of State Highways 89 and 174 along State Highway 89.	*14
		Atlantic Ocean/Bohicket Creek	At State Highway 1443 extended	*12
		Atlantic Ocean/Toogoodoo Creek	At Ethel Road extended	*10
		Atlantic Ocean/Dawho Creek	At the intersection of State Highways 174 and 89	*8
		Atlantic Ocean/South Edisto River	At Raccoon Island Extended	*16
			Just downstream of the Seaboard Coastline Railroad	*12
		Atlantic Ocean/Fishing Creek near St. Pierre.	At State Highway 767 extended	*17
Maps available for inspection at Building Inspections Office, County Office Building, 2 Courthouse Square, Charleston, South Carolina 29401.				
Send comments to Mr. Steve Steinert, County Administrator, or Mr. Carl Simmons, Building Inspections Director, County Office Building, 2 Courthouse Square, Room 401, Charleston, South Carolina 29401				
South Carolina	City of Isle of Palm, Charleston County	Atlantic Ocean	31st Avenue extended to the Atlantic Ocean coastline	*20
			A point 600 feet seaward along 49th Avenue from the intersection of 49th Avenue and Cameron Boulevard.	*15
			At the intersection of Palm Boulevard and 31st Avenue.	*14
			At the intersection of Harnett Boulevard and 31st Avenue.	*13
Maps available for inspection at Building Inspector's Office, City Hall, 1301 Palm Boulevard, Isle of Palms, South Carolina 2945.				
Send comments to Mayor L. C. Cable or Mr. George Penington, Building Official, City Hall, P.O. Drawer Q, Isle of Palms, South Carolina 29451.				
South Carolina	City of North Charleston, Charleston County	Atlantic Ocean/Cooper River	At the confluence of Cooper River and Filbin Creek	*13
		Atlantic Ocean/Ashley River	Approximately 3,000 feet west of Dorchester Road and Bream Street intersection along Bream Street.	*9
Maps available for inspection at Planning and Management Department, City Hall, 4900 Lacross Road, North Charleston, South Carolina 29411.				
Send comments to Mayor John E. Bourne, Jr., or David franks, City Draftsman, City Hall, P.O. Box 10100, North Charleston, South Carolina 29411.				
Tennessee	City of Humboldt, Gibson County	Lick Creek	Just upstream of Hadley Street	*340
			Just upstream of State Highway 52 (Maclin Street)	*352
		Little Sugar Creek	Just upstream of U.S. Route 45W Bypass	*352
		Unnamed Tributary to Middle Fork of Forked Deer River.	Just upstream of Gibson Wells Road	*333
Maps available for inspection at Mayor's Office, Municipal Building, 1421 Osborne Street, Humboldt, Tennessee 38343.				
Send comments to Mayor Tom McCaslin, Municipal Building, 1421 Osborne Street or Mr. Griffin Boyle, City Attorney, First National Shopping Center, 22nd Avenue, Humboldt, Tennessee 38343.				
Texas	City of Boerne, Kendall County	Cibolo Creek	Just downstream of Main Street	*1,395
			Just upstream of the Issen Street	*1,399
			Just upstream of San Antonio Avenue	*1,401
			Just upstream of John Road	*1,408
		Currey Creek	Just upstream of Esser Road	*1,392
			Just upstream of Rosewood Street	*1,400
			Just upstream of Blanco Road	*1,407

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Unnamed Tributary A	Just upstream of River Road	*1,388
			Just downstream of Rosewood Street	*1,399
			Just upstream of Blanco Road	*1,405
			Approximately 300 feet downstream of Southern Pacific Railroad.	*1,410
			Just upstream of Southern Pacific Railroad	*1,418
Maps available for inspection at City Hall, City Administrator's Office, 402 East Blanco, Boerne, Texas 78006.				
Send comments to Mayor Arthur E. Howell, Jr., or Edgar Schwarz, Jr., City Administrator, City Hall, P.O. Drawar U, Boerne, Texas 78006.				
Texas	Unincorporated Areas of Cameron County	Gulf of Mexico/Laguna Madre	Approximately 1.0 mile east along State Highway 48 from the intersection of Vermilion Avenue and State Highway 48.	*13
			Approximately 1.0 mile east along Boca Chica Highway (State Highway 4) from the intersection of Oklahoma Avenue (FM 1419) and Boca Chica Highway.	*13
			At the intersection of Buena Vista Road and State Highway 100.	*12
			Approximately 14.8 miles east along Boca Chica Highway (State Highway 4) from the intersection of Oklahoma Avenue (FM 1419) and Boca Chica Highway; at Hopernik Shores.	*8
			At the intersection of State Highway 100 and FM 1792	*7
Maps available for inspection at Cameron County Courthouse, Room 201, 964 East Harrison Street, Brownsville, Texas 78520.				
Send comments to Judge R. A. Ramon or Mr. R. A. Torres, Building Official, Cameron County Courthouse, 964 East Harrison Street, Brownsville, Texas 78520.				
Texas	Village of Laguna Vista, Cameron County	Gulf of Mexico/Laguna Madre	Approximately 300 feet from the intersection of Fernandez Street and Beach Boulevard towards the Laguna Madre shoreline.	*9
			Approximately 200 feet from the intersection of Box Street and Beach Boulevard towards the Laguna Madre shoreline	*11
Maps available for inspection at Building Inspector's Office, Village Hall, 122 Fernandez, Laguna Vista, Texas 78578.				
Send comments to Mayor Arnold Samuelson or O.V. Heckman, Building Inspector, Village Hall, 122 Fernandez, Laguna Vista, Texas 78578.				
Texas	City of Palacios, Matagorda County	Gulf of Mexico/Tres Palacios Bay	At the intersection of First Street and Perryman Avenue.	*13
			At the intersection of Third Street and Ritchie Avenue	*10
Maps available for inspection at City Hall, 205 Fourth Street, Palacios, Texas 77465.				
Send comments to Mayor Leonard Lamar, City Hall, P.O. Box 845, Palacios, Texas 77465.				
Texas	City of Port Isabel, Cameron County	Gulf of Mexico/Laguna Madre	At the intersection of Madison Street and Garcia Street.	*8
			At the intersection of Second Street and Oklahoma Avenue.	*7
			At the intersection of Island Avenue and Bass Avenue	*7
Maps available for inspection at City Hall, 305 East Masan Street, Port Isabel, Texas 78578.				
Send comments to Mayor Quirino Martinez or Ernestina Varrera, City Secretary, City Hall, P.O. Box 146, Port Isabel, Texas 78578.				
Texas	Town of South Padre Island, Cameron County	Gulf of Mexico	At the intersection of Gulf Boulevard and Coronado Drive.	*8
			At the intersection of Gulf Boulevard and Hibiscus Street.	*8
		Gulf of Mexico/Laguna Madre	At the intersection of Padre Boulevard and King Fish Street.	*6
			At the intersection of Laguna Boulevard and Mezquite Street.	*6
Maps available for inspection at Building Inspector's Office, Town Hall, 4305 Padre Boulevard, South Padre Island, Texas 78597.				
Send comments to Mayor Minnie Solomonson or Johnny P. Smith, Town Manager, Town Hall, P.O. Box 3410, South Padre Island, Texas 78597.				
Vermont	Marshfield, Town, Washington County	Winooski River	Downstream corporate limits	*751
			Downstream of Town Road 57	*759
			Upstream of Town Road 48	*776
			Upstream of Town Road 38	*782
			Upstream of Town Road 12	*867
			Upstream corporate limits	*888
Maps available for inspection at the Town Clerk's Office, Marshfield, Vermont.				
Send comments to Honorable Richard Phillips, Chairman of the Marshfield Board of Selectmen, Town Offices, Marshfield, Vermont 05658.				
Vermont	Marshfield, Village, Washington County	Winooski River	Downstream corporate limits	*791
			Downstream of Marshfield Dam	*809
			Upstream of U.S. Route 2	*848
Maps available for inspection at the Village Offices, Marshfield, Vermont.				
Send comments to Honorable Charles Stander, Village Trustee, Village Offices, Marshfield, Vermont 05658.				
Virginia	Tazewell, Town, Tazewell County	Clinch River	Downstream corporate limits	*2,348
			Fairground Road	*2,353
			Private Drive approximately 4,646' upstream of Fairground Road.	*2,379
			Wolfe Street	*2,379

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			1st upstream corporate limits	*2,384
			Confluence of North Fork and South Fork Clinch River	*2,397
		Tributary 1 to Clinch River	Confluence with Clinch River	* 2,351
			Corporate limits	*2,351
		North Rork Clinch River	Confluence with Clinch River	* 2,397
			Confluence of Tributary to North Fork Clinch River	*2,406
			Corporate limits	*2,412
		Tributary to North Fork Clinch River.	Confluence with North Fork Clinch River	* 2,406
			Corporate limits	*2,416
		Cavitts Creek	Confluence with Clinch River	* 2,353
			Private Drive approximately 1,267' upstream of State Route 16 (upstream side).	*2,365
			Corporate Limits	*2,372
		Tributary 2 to Clinch River	Confluence with Clinch River	* 2,368
			1st crossing State Route 16	*2,376
			2nd crossing State Route 16	*2,386
		South Fork Clinch River	Confluence with Clinch River	* 2,397
			Corporate limits	*2,407

Maps available for inspection at the Town Hall, 100 Central Avenue, Tazewell, Virginia.

Send comments to Honorable Buddy Blevins, Town Manager, P.O. Box 608, Tazewell, Virginia 24651.

Virginia	Tazewell County	Clinch River	Downstream corporate limits	* 1,905
			Confluence of Tributary to Clinch River	*1,922
			Downstream corporate limits of Town of Cedar Bluff and Tazewell County.	*1,944
			Upstream of 3rd crossing of Norfolk and Western Railway.	*2,338
			Upstream of dam	*2,365
			Most upstream corporate limits	*2,392
		Middle Creek	Downstream corporate limits	* 1,992
			Approximately .6 mile upstream of 2nd crossing of State Route 621.	*2,039
			Approximately 1.5 miles upstream of 2nd crossing of State Route 621.	*2,070
			Upstream of 3rd crossing of State Route 621	*2,108
		Johnson Branch	Upstream of State Route 635	* 2,447
			Approximately 2,000' upstream of State Route 16	*2,473
		Cavitts Creek	Downstream corporate limits	* 2,367
			Approximately .5 mile upstream of corporate limits	*2,390
		Laurel Fork	Downstream corporate limits	* 2,309
			Upstream corporate limits of Town of Pocahontas and Tazewell County.	*2,350
			Upstream of Cassidy Drive	* 2,387
			Upstream of most upstream crossing of State Route 747.	*2,429
		Wrights Valley Creek	Downstream of U. S. Routes 19 and 450	* 2,422
			Upstream of State Route 650	*2,442
			Approximately .5 mile upstream of State Route 650	*2,453
		Coal Creek	Confluence with Clinch River	* 1,908
			Downstream of 3rd crossing of Norfolk and Western Railway.	* 1,948
			Upstream of 4th crossing of Norfolk and Western Railway.	* 1,988
			Downstream of State Route 801	*2,041
			Approximately .3. mile upstream of 8th crossing of Norfolk and Western Railway.	*2,175
		Indian Creek	Downsteam corporate limits of Town of Cedar Bluff and Tazewell County.	* 1,969
			Downstream of State Route 626	*2,004
			Downstream of 2nd crossing of Norfolk and Western Railway.	*2,024
			Upstream of 1st crossing of State Route 627	*2,053
			Upstream of State Routes 626 and 627	*2,093
			Upstream of State Route 624	*2,129
			Downstream of State Route 612	*2,161
		West Fork Plum Creek	Approximately 125' upstream of confluence with Plum Creek.	* 2,365
			Approximately 1.5 miles upstream of confluence with Plum Creek.	*2,440
			Approximately 1.9 miles upstream of confluence with Plum Creek.	*2,507
			Approximately 2.3 miles upstream of confluence with Plum Creek.	*2,568
			Approximately 2.6 miles upstream of confluence with Plum Creek.	*2,583
		North Fork Clinch River	Upstream of 1st crossing of U. S. Highways 19 and 460.	* 2,416
			Approximately .7 mile downstream of 2nd crossing of U. S. Highways 19 and 460.	*2,438
			Downstream of 1st crossing of Norfolk and western Railway.	* 2,461
		South Fork Clinch River	Downstream corporate limits	*2,406
			Approximately 0.75 mile upstream of corporate limits	*2,436
			Approximately 1.25 miles upstream of corporate limits	*2,452
		Bluestone River	Downstream of Taylor Road	*2,431
			Approximately 2 miles upstream of Taylor Road	*2,466

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream of Fannin Road	*2,499
			Downstream of Russell Road	*2,535
			Approximately 0.9 mile upstream of Russell Road	*2,558
		Big Creek	Approximately 1 mile upstream of confluence with Clinch River.	*1,968
			Approximately 750' upstream of State Route 67	*1,975
		Tributary to Clinch River	Confluence with Clinch River	*1,922
			Upstream corporate limits	*1,923
		Tributary to North Fork Clinch River.	Downstream corporate limits	*2,413
			Approximately 1,100' upstream of corporate limits	*2,424
Maps available for inspection at the County Courthouse, Inspector's Office, Main Street, Tazewell, Virginia.				
Send comments to Honorable W. J. Hankins, Tazewell County Administrator, P.O. Box 68, Tazewell, Virginia 24651				
Virginia	Pocahontas, Town, Tazewell County	Laurel Fork	Downstream corporate limits	*2,317
			Upstream Paradise Street	*2,322
			Upstream State Route 659	*2,336
			Upstream corporate limits	*2,349
		Tributary to Laurel Fork	Confluence with Laurel Fork	*2,333
			Approximately 1,150' upstream of confluence with Laurel Fork.	*2,353
Maps available for inspection at the Town Hall, St. Clair Street, Pocahontas, Virginia.				
Send comments to Honorable Wilson Edward Harman, Mayor of Pocahontas, P.O. Box 127, Pocahontas, Virginia 24635.				
Wisconsin	(Uninc.) Columbia County	Wisconsin River	About 400 feet downstream of State Highway 60	*748
			Just downstream of Prairie Du Sac Dam	*750
			Just upstream of Prairie Du Sac Dam	*774
			Just downstream of city of Wisconsin Dells corporate limit.	*827
		Fox River	At downstream county boundary	*782
			Just upstream of State Highway 33 (downstream crossing).	*789
			Just upstream of Haynes Road	*810
			About 2.4 miles upstream of State Highway 33 (upstream crossing).	*819
		Crawfish River	Just upstream of State Highway 73	*835
			About 1.3 miles upstream of Hall Road	*847
		North Branch Crawfish River	At village of Fall River corporate limits	*859
			Just downstream of County Highway DG (upstream crossing).	*861
		Duck Creek	Mouth at Wisconsin River	*788
			At village of Wyocena corporate limits (downstream crossing).	*794
			At village Wyocena corporate limits (upstream crossing).	*803
		Neenah Creek-Big Slough	Mouth at Fox River	*783
			About 600 feet upstream of U.S. Highway 51	*787
			About 5,500 feet upstream of County Highway X	*791
		Baraboo River	Mouth at Wisconsin River	*788
			At upstream county boundary	*803
Maps available for inspection at the Zoning Office, Columbia County Administration Building, Portage, Wisconsin. Send comments to Honorable Reuben Damm, Chairman of the Columbia County Board, Columbia County, Columbia County Administration Building, Portage, Wisconsin 53901.				
Wisconsin	(Uninc.) Green County	Allen Creek	Just downstream of County Highway E	*811
			About 1.4 miles upstream of County Highway E	*821
		Brayton Creek	About 500 feet upstream from mouth	*837
			About 0.97 mile upstream from mouth	*845
		Honey Creek	Just upstream of Franklin Road	*931
			About 0.6 mile upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad at city of Monroe corporate limits.	*986
		Juda Branch	Just upstream of County Highway OK	*799
			About 1.98 miles upstream of County Highway S	*904
		Legler School Branch	Just upstream of Second Street at village of New Glarus corporate limit.	*859
			About 0.45 mile upstream of Legler Valley Road	*991
		Little Sugar River	At mouth (Albany Lake)	*808
			About 1.4 miles upstream of River Road at confluence of West Branch Little Sugar River.	*825
		Norwegian Creek	Just upstream of Sugar River State Trail	*792
			Just downstream of State Highways 104 and County Highway T.	*805
		Pecatonica River	At Illinois-Wisconsin State Boundary	*783
			At Lafayette-Green County Boundary	*790
		Richland Creek	Just upstream of County Highway K	*900
			Just upstream of culvert at State Highway 11 and 81	*947
			Just downstream of Greenbush Road	*991
		Skinner Creek	At mouth	*790
			About 1.01 miles upstream of Cadiz Springs Road	*790
		Sugar River	Just upstream of County Highway T	*764
			About 1.7 miles upstream of Decatur-Albany Road near village of Albany (southern corporate limit).	*801
			Albany Lake just upstream of village of Albany (northern corporate limit).	*808
			About 3.1 miles upstream of County Highway D	*855

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sugar River Decatur Raceway	About 0.36 mile downstream of Decatur Road	*786
			About 0.13 mile upstream of Decatur Raceway Dam	*792
		West Branch Little Sugar River	At mouth	*825
			About 0.23 mile upstream of Illinois Central Gulf Railroad.	*828
			About 0.21 mile downstream of State Highways 69 and 39.	*836
			About 0.84 mile upstream of Washington Road	*845
Maps available for inspection at the Highway Department Office, 2813 Sixth Street, Monroe, Wisconsin. Send comments to Honorable Kenneth Meyer, Highway and Zoning Commissioner, Green County, Highway Department Office, P.O. Box 259, 2813 Sixth Street, Monroe, Wisconsin 53566.				
Wisconsin	(V) Wyocena, Columbia County	Duck Creek	Just upstream of private drive	*794
			Just downstream of breached dam	*795
			Just upstream of breached dam	*799
			At upstream corporate limits	*803
Maps available for inspection at the Village Hall, Wyocena, Wisconsin. Send comments to Honorable Max M. Lytle, Village President, Village of Wyocena, Village Hall, P.O. Box 656, Wyocena, Wisconsin 53969.				

(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. 4002–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 2, 1982.

Dave McLoughlin,

Acting Associate Director State and Local Programs and Support.

[FR Doc. 82-34357 Filed 12-21-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 21210-254]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of proposed inseason adjustment and request for comment.

SUMMARY: This notice proposes an increase in the optimum yield (OY) for sablefish harvested off the coasts of Washington, Oregon, and California in 1982. This action is authorized under the Pacific Coast Groundfish Fishery Management Plan and Federal regulations. The intended effect of this action is to establish a more accurate basis on which to manage the fishery in 1983.

DATE: Comments on this proposed action must be received by January 11, 1983.

ADDRESSES: Send comments to H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982, and its implementing regulations were published in the **Federal Register** at 47 FR 43974 on October 5, 1982. The regulations at 50 CFR 663.22(b) (47 FR 43978) state that the Secretary of Commerce (Secretary), after receiving a recommendation from the Pacific Fishery Management Council (Council), may increase the numerical OY for a species if he determines that no biological stress would result and that the increase would promote full utilization of the resource. The numerical OY is the maximum amount of a species that may be retained or landed each year from the fishery management area (3–200 nautical miles from shore) and State waters (0–3 nautical miles from shore). The FMP assigns numerical OYs to five species: Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish. All other species managed under the FMP are in a multispecies complex and do not have individual numerical OY specifications.

In late September 1982, the Council became aware that the OY for sablefish had been reached. The Council directed its Groundfish Management Team (Team) to reevaluate the appropriateness of the sablefish OY because: (1) The harvest of sablefish in 1980 and 1981 was about 8,000 mt below the total OY for the two years, possibly providing additional harvestable fish in 1982; (2) there were indications of a strong 1977 year class that had recently became available to the fishery; (3) signs of stress on the stock had not been identified; (4) it would be premature to close the fishery completely before the accuracy of the OY were verified; and (5) OY is based not only on biological factors but on social and economic factors as well, and closure of the fishery would result in economic hardship for many in the fishing industry.

To ensure that biological stress did not occur before the Team could reevaluate OY, and to avoid premature and perhaps unnecessary closure of the fishery, the Secretary imposed an emergency interim rule placing a 3,000 pound (round weight) trip limit on sablefish after October 27, 1982 (47 FR 49620). This trip limit will be extended by separate **Federal Register** notice through December 31, 1982.

According to the regulations at 50 CFR 663.22(b)(3), the maximum possible increase in OY for sablefish that can be made in 1982 is 4,000 mt, a 30 percent increase over the initial 1982 specification of 13,400 mt.

The regulations at 50 CFR 663.22(b) list biological factors to be considered before increasing OY, and require public input in the determination. The biological factors are to be considered when determining whether the increase

in OY would cause biological stress. No biological information to support a change to the maximum sustainable yield (MSY) and 1982 acceptable biological catch (ABC) estimates of 13,400 mt was available. Although projected catches to the end of 1982 are over 21,000 mt, the Team was unable to document signs of biological stress at the levels of sablefish fishing experienced in 1982. The proposed increase is not expected to impact the OY for other species. The Council's Scientific and Statistical Committee and Groundfish Advisory Subpanel favored increasing the 1982 OY to 17,400 mt to avoid unnecessary economic hardship for the fishing industry. A public hearing was held in conjunction with the November 17–18, 1982, Council meeting. Most of the public testimony requested increasing the 1982 sablefish OY by 30 percent and maintaining the increase for the initial 1983 OY. (Such an action would allow the OY to be increased an additional 30 percent in 1983 if conditions warrant). After considering all comments, the Council recommended that the 1982 OY for sablefish should be increased to 17,400, mt, based solely on social and economic factors.

The Secretary has considered the sparse information available and the factors listed at 50 CFR 663.22(b)(i)-(vi) and has determined that a 30 percent increase in the 1982 OY estimate for sablefish from 13,400 mt to 17,400 mt will not cause biological stress to that or any other species and that such action would promote full utilization of the resource. He, therefore, proposes to increase the 1982 OY for sablefish to 17,400 mt.

Lists of Subjects in 50 CFR Part 663

Fish, Fisheries, Fishing.

This action is taken under the authority of 50 CFR 663.22, is in compliance with Executive Order 12291, and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations and by the Final Environmental Impact Statement (filed with the Environmental Protection Agency) for the FMP.

(16 U.S.C. 1801 *et seq.*)

Dated: December 17, 1982.

Joseph W. Angelovic,

Acting Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 82-34695 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 246
Wednesday, December 22, 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

Forms Under Review by Office of Management and Budget

December 17, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

Revised

• Economic Research Service
Cost of Production—Major Crops
Nonrecurring
Farms: 2,940 responses; 3,234 hours; not applicable under 3504(h)
James Johnson (202) 447–2317

• Agricultural Marketing Service
Tomatoes Grown in Florida—Marketing Order 966
On occasion, annually
Farms, businesses or other institutions: 72,732 responses; 143,984 hours; not applicable under 3504(h)
Charles W. Porter (202) 447–2615

• Agricultural Marketing Service
Report Forms Under Federal Milk Orders (From Milk Handlers and Milk Marketing Copperatives)
On occasion, monthly, annually
Businesses or other institutions: 48,384 responses; 36,691 hours; not applicable under 3504(h)
Martin J. Dunn (202) 447–7311

Reinstatement

• Agricultural Marketing Service
Poultry Market News Reports
PY–10, 17, 88, 90
Weekly, monthly
Businesses or other institutions: 55,932 responses; 2,261 hours; not applicable under 3504(h)
Ray Wruk (202) 447–6911.

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82–34642 Filed 12–21–82; 8:45 am]
BILLING CODE 3410–01–M

ARCHITECTURAL AND TRANSPORTATION

Barriers Compliance Board; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:00 PM to 5:00 PM, Tuesday, January 11, 1983, to take place in the Main Hall of the Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue, SW., Washington, D.C. 20024. Items to be considered are as follows: Discussion on the utilization of ATBCB discretionary funds in FY 1983; proposed transfer of ATBCB administrative support services from Departemnt of Education to GSA; discussion of exploration of long-term ATBCB objective.

DATE: January 11, 1983, 1:00 PM–5:00 PM.

ADDRESS: Main Hall, Disabled American Veterans (DAV) National Service and Legislative Headquarters, 809 Maine Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Monday, January 10, 1983, in the Hubert Humphrey Building. Contact Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD), for further information.

Wm. Bradford Reynolds,
Chairperson.

[FR Doc. 82–34626 Filed 12–21–82; 8:45 am]
BILLING CODE 4000–07–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Survey of Retail Sales and Inventories; Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published November 9, 1982 (47 FR 50732), I have determined that certain 1982 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales and accounts receivable balances for 1982 and year-end inventories for 1981 and 1982. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required from a selected sample of firms operating retail establishments in the United States, with probability of selection based on sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 16, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-34657 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-07-M

Annual Wholesale Trade; Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published November 12, 1982 (47 FR 51176), I have determined that data covering year-end inventories and annual sales are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1978. It provides, on a comparable classification basis, annual sales for 1982 and year-end inventories for 1981 and 1982. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required from a selected sample of firms operating merchant wholesale establishments in the United States, with probability of selection based on sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: December 16, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-34656 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductors, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States established or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: January 18, 1983 at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA: General Session:

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Update of the COCOM schedule for the list review.

(4) Subcommittee reports:

a. Discrete Semiconductor Device,

b. Microcircuits, and

c. Semiconductor Manufacturing Materials and Equipment.

(5) Election of chairman.

(6) New business; Executive Session.

(7) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federally 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 the 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. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: December 14, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-34624 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Scientific and Statistical Committee and Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee and an Advisory Panel, which will meet jointly to examine and provide recommendations on the policy to be adopted by the Council on potential sites for marine sanctuaries in Puerto Rico and the U.S. Virgin Islands; on the evaluation of area closures as a management tool in the Caribbean fishery conservation zone, and to discuss other related business.

DATE: The public meeting will convene on Tuesday, January 18, 1983, at approximately 9:30 a.m., and will adjourn at approximately 3:30 p.m., and will take place at the Federal Building, Room 327, Carlos Chardon Avenue, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918; Telephone: (809) 753-4926.

Dated: December 17, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82-34696 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

University of California; Issuance of Permit

On November 8, 1982, Notice was published in the **Federal Register** (47 FR 50540), that an application had been filed with the National Marine Fisheries Service by Ms. Susan Shane, Biology-Applied Sciences Bldg., University of California, Santa Cruz, California 95064, for a permit to take by harassment up to 2,000 Pacific pilot whales over a three year period for the purpose of scientific research.

Notice is hereby given that on December 16, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 16, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 82-34694 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

Wometco Miami Seaquarium; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Wometco Miami Seaquarium, 4400 Rickenbacker Causeway, Miami, Florida 33149.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus) (6).

4. Type of Take: To take for permanent maintenance.

5. Location of Activity: Indian River, Florida.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 17, 1982.

R. B. Brumstead,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 82-34693 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Taiwan Under a New Agreement, Effective on January 1, 1983

December 16, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing the import restraint levels for certain cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, under a new agreement.

SUMMARY: On November 18, 1982 representatives of the American Institute in Taiwan and the Coordination Council for North American Affairs signed an agreement concerning cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan, and exported during the six year period beginning on January 1, 1982 and extending through December 31, 1987. The new agreement establishes specific ceilings, among other categories, for Categories 313, 331, 333/334, 335, 337, 338/339, 340, 341, 347/348, 353/354/653/654, 435, 445/446, 604, 633/634/635, 638, 639, 640, 641, 645/646, 647, 648, and 659 for the agreement year beginning on January 1, 1983. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories be limited to the designated amounts during the agreement year which begins on January 1, 1983. In accordance with the flexibility provisions of the new agreement the base levels for Categories 633/634/635, 640, 645/646, and 659 have been adjusted to include swing.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and

Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 16, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral textile agreement of November 18, 1982, concerning cotton, wool, and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced or manufactured in Taiwan, in excess of the indicated levels of restraint:

Category	12-mo level of restraint
313	42,875,872 square yards.
331	473,006 dozen pairs.
333/334	61,870 dozen.
335	73,988 dozen.
337	131,087 dozen.
338/339	559,411 dozen.
340	644,548 dozen.
341	373,368 dozen.
347/348	909,085 dozen of which not more than 446,481 dozen shall be in Cat. 347 and not more than 720,783 dozen shall be in Cat. 348.
353/354/653/654	219,406 dozen.
435	19,616 dozen.
445/446	126,286 dozen.
604	461,340 pounds.
633/634/635	1,506,746 dozen of which not more than 993,723 dozen shall be in Cat. 633/634 and not more than 739,034 dozen shall be in Cat. 635.
638	1,626,644 dozen.
639	5,033,179 dozen.
640	3,254,285 dozen.
641	703,726 dozen.
645/646	3,966,756 dozen.
647	2,378,621 dozen.
648	3,089,650 dozen.
659 pt.[1]	3,340,838 pounds.
659 pt.[2]	1,725,500 pounds.

[1] In Category 659, only T.S.U.S.A. numbers 703.0500 and 703.1000.
[2] In Category 659, only T.S.U.S.A. number 703.1515.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 313 and 337, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Entries of textile products in Categories 313 and 337, which have been exported before January 1, 1983 shall not be subject to this directive.

Except as already adjusted, the levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 18, 1982, which provide, in part, that: (1) specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits and sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equivalent quantity in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool, and man made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–34623 Filed 12–21–82; 8:45 am]
BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent To Prepare a Regulatory Action Draft Environmental Impact Statement (DEIS) for the Duck Island/ Sagavanirktok River Delta Development Project, Prudhoe Bay, Alaska

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)

SUMMARY: 1. The proposed action contemplates issuance of a permit to the SOHIO Alaska Petroleum Company and the EXXON Corporation for the Duck Island/Sagavanirktok (Sag) Delta Development Project located offshore of the North Slope Borough, Alaska. The project is related to society's need for energy and is proposed to recover oil and gas of the Endicott Reservoir by facilities located on manmade gravel islands. The proposed project includes:

a. Construction in the Beaufort Sea (Arctic Ocean) of a combined production and drilling island, two satellite drilling islands, and, should secondary recovery be found to be feasible, a waterflood island.

b. Construction of buried pipeline between islands for produced fluids, injection water, artifical lift gas, and fuel.

c. Construction of buried pipelines for sales of oil and gas between the production island and the Trans-Alaska Pipeline System (TAPS). Two pipeline alternatives are being considered, construction of a causeway connecting the production island with the shore, or pipeline burial in subsea trenches.

d. Construction of facilities to generate electrical power, both centralized on the production island and localized on each island

e. Placement of cables between islands for electrical power distribution.

f. Construction of roads, distribution

pipelines, and fuel and utility systems.

2. Alternatives include no action; meeting society's energy need by other means; issuing a permit with certain conditions; alternative locations for drilling and production; alternative plan variations relating to roads, pipelines, structures, construction techniques, gravel sources, intake/discharge structures, treatment plant processes, and air quality control techniques.

3. The scope of the DEIS will be determined by encouraging and seeking the involvement of individuals; organized groups; the Inupiat Eskimos; local, State, and Federal agencies; and expert opinion from other sources. These and other interested parties are invited to actively participate in the scoping process by expressing ideas and concerns related to the proposed action.

Issues to be analyzed indepth include effects on wetland values, biological resources of aquatic systems, water quality, wildlife, air quality, human dependence and use of affected resources, and the cumulative impact of continued oil and gas development on the North Slope, Alaska. Possible cooperating agencies (as defined by current Federal guidelines) include the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service, and other agencies of the Department of the Interior. In addition to preparation of the environmental impact statement and involvement in the Corps of Engineers permit process, the project will require permits from EPA and various local and state bodies.

4. An initial scoping meeting to provide an opportunity for public involvement will be held on 18 January 1983 in Anchorage, Alaska. The time and location have not yet been established. There will be additional scoping meetings to follow, times have yet to be determined. Written comments regarding the scope of the DEIS are welcomed

5. The DEIS is estimated to be available for public review in October 1983.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Resources Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510

Dated: December 8, 1982.

Neil E. Saling,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-34625 Filed 12-21-82; 8:45 am]

BILLING CODE 3710-NL-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Sand Island Shore Protection Study

December 10, 1982.

AGENCY: Army Corps of Engineers, Honolulu District, DOD.

ACTION: Notice of intent to prepare draft environmental impact statement.

SUMMARY: 1. The U.S. Army Engineer District, Honolulu, is studying the feasibility of providing shore protection for Sand Island on Oahu, Hawaii.

2. The study is investigating the possibility of using detached breakwaters and/or an ungrouted riprap revetment to provide the protection.

3. The corps held a workshop in November 1982 in Honolulu with the State of Hawaii, Parks Division, and interested local citizens. Local interest groups, private organizations and parties, and Federal, State and County of Hawaii agencies will again be contacted during the course of the study. At this time, the DEIS will address the effects of the improvements on fish and wildlife resoures, historic sites, water resources, parks and social considerations identified by local residents at the public workshops. The U.S. Fish and Wildlife Service will provide their opinion of the project effects on fish and wildlife resources for inclusion in the DEIS. Consultation with the U.S. Advisory Council on Historic Preservation, National Park Service, State Historic Preservation Officer, State Department of Health, U.S. Environmental Protection Agency, National Marine Fisheries Service, State Harbor Division, and State Department of Parks, and the County Department of Parks and Recreation will be completed during the study as appropriate.

4. A scoping meeting is not planned at this time.

5. The DEIS will be made available for public review about April 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Warren Kanai, Project Manager, U.S. Army Engineer District, Honolulu, Building T-1, Fort Shafter, HI 96858; telephone (808) 438-2240.

Alfred J. Thiede,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-34640 Filed 12-21-82; 8:45 am]

BILLING CODE 3710-NN-M

Department of the Navy

Permanent Disposal of Decommissioned, Defueled Naval Submarine Reactor Plants; Public Hearings and the Availability of Draft Environmental Impact Statement

The Department of the Navy has prepared a draft environmental impact statement (EIS) to assess the environmental implications of alternatives that could be used to permanently dispose of decommissioned, defueled naval submarine reactor plants.

The proposed action is to evaluate the two basic alternatives for the permanent disposal of decommissioned, defueled submarine reactor plants—either land or sea. The Navy has made no decision to dispose of any nuclear-powered ships at this time. However, with over 100 nuclear-powered submarines in operation, the Navy is faced with eventual decommissioning of these ships at a future rate of possibly 3 or 4 per year over the next 30 years, and a permanent means of disposal must be developed that is environmentally acceptable. Following decommissioning, the submarines do not contain nuclear fuel, transuranic elements, or high level radioactive material. They will, however, contain low-level radioactivity resulting from the operation of the reactors while the submarines were in commission.

The two basic alternatives for permanent disposal are land disposal and sea disposal. Permanent disposal can be achieved by removal of the submarine compartment that contains the defueled reactor, followed by shipment of the compartment by barge and overland transporter to either of two accessible Federal land burial sites currently used by the Department of Energy for burial of low-level radioactive waste. These sites are in South Carolina (Savannah River Plant) and Washington State (Hanford Site). Radiation levels associated with the entire operation would meet applicable requirements of the Department of Transportation, Nuclear Regulatory Commission, and Department of Energy for transportation and disposal of solid low-level radioactivity. Alternatively, permanent disposal of the defueled submarine reactor plants could be achieved by sinking the defueled, decommissioned submarine in deep water locations that would be designated by the United States Environmental Protection Agency.

An alternative for temporary disposition of these defueled submarine

reactor plants would be the placement of each submarine in protective storage in a Navy facility for an extended period. This would allow radioactive material to decay under controlled conditions without release to the environment. However, this alternative would lead to other impacts and only postpone the decision for ultimate disposal, requiring the decision to be made sometime in the future. For this reason, this alternative is regarded as the no-action alternative. No other practical alternatives are known to exist for the final disposition of the reactor plants.

Impacts assessed for each disposal alternative include expected commitment of resources, land use, transportation requirements, and environmental consequences, including occupational radiation exposure due to disposal activities, and possible radiation exposure to the public during transportation and disposal. The impact of radioactivity releases due to unexpected occurrences is also assessed. For each alternative considered, an assessment is made of the impact on the environment in the vicinity of disposal sites. The draft EIS also includes a cost analysis of the disposal alternatives.

In accordance with the Council on Environmental Quality regulations for compliance with the National Environmental Policy Act (NEPA) (40 CFR Part 1501), the Department of the Navy is serving as the lead agency for preparation of the EIS. The Department of Energy (DOE) is participating as a cooperating agency with regard to the alternative of land disposal at DOE burial sites. By participating as a cooperating agency, DOE obligations under NEPA are fulfilled and no separate DOE EIS is required.

Copies of the draft EIS have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality regulations. Copies have also been sent to interested organizations and individuals, including those who requested copies in their response to the Navy's solicitation of comments or suggestions on the scope of the planned environmental statement, which was published in the **Federal Register** on January 14, 1982.

Single copies of the draft EIS may be obtained by writing to: Captain Edward F. Wagner, U.S. Navy, Office of the Chief of Naval Operations (OPNAV–22), Department of the Navy, Washington, D.C. 20350, Telephone (202) 697–1961.

The draft EIS may also be reviewed at the locations identified in this notice. The locations selected include public libraries in the county seats of all counties on the U.S. west coast. Locations were not selected in every county on the U.S. east coast because of the large number of counties and the short distance between county seats in some cases. Therefore, public libraries were selected in these locations such that any person would only have to travel a short distance to review the draft EIS. The draft EIS will be available in public libraries in all counties which surround the Federal land burial sites in South Carolina (Savannah River Plant) and Washington State (Hanford Site). The draft EIS will also be available at several locations in each State capitol where public hearings will be held.

Interested agencies, organizations, and the general public desiring to submit comments on the draft EIS are invited to do so. Comments on the draft EIS will be considered in preparing the final EIS.

Written comments on the draft EIS may be submitted to: Captain Edward F. Wagner, U.S. Navy, Office of the Chief of Naval Operations (OPNAV–22), Department of the Navy, Washington, D.C. 20350, Telephone (202) 697–1961.

Written comments should be received on or before March 31, 1983, in order to be incorporated into the final EIS. Responses to all substantive comments will be published in the final EIS.

Public hearings will be held during the comment period to afford members of the public an opportunity to present their views on the basic alternatives. These hearings will be held at the following locations:

1. February 14, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the North Carolina Department of Transportation Auditorium, Wilmington and Morgan Streets, Raleigh, North Carolina.

2. February 17, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the University of South Carolina Wade Hampton Conference Center, Main and Gervais Streets, Columbia, South Carolina.

3. February 22, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the State of Washington Department of General Administration, Office Building #2 auditorium, 218 General Administration Building, Olympia, Washington.

4. February 24, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the California Water Resources Building, 1416 Main Street, Sacramento, California.

The hearings will be conducted by a Navy Hearing Officer. The hearings will be informal, neither evidential nor judicial in nature, and there will be no cross-examination of witnesses. All persons who give testimony or ask questions are requested to address themselves to the Hearing Officer. Individual speakers are requested to limit their testimony to five minutes each, and organizational spokesmen will have ten minutes each to summarize and present their views. Organizations desiring to make a formal presentation in excess of ten minutes may do so if specific arrangements have been made with the Hearing Officer in advance. All testimony will be recorded.

Individuals and organizations wishing to submit written statements to be included in the hearing record may either present such statements to the hearing Officer at the hearing or mail the statements to Captain Wagner at the above address.

Locations Where Draft EIS Is Available for Review

San Diego Public Library, 820 E Street, San Diego, CA 92101, Phone: 714–565–5100.

Redwood City Public Library, 881 Jefferson Avenue, Redwood City, CA 94063, Phone: 415–369–6251.

Santa Ana Public Library, 26 Civic Center Plaza, P.O. Box 1988, Santa Ana, CA 92701, Phone: 714–834–4021.

Los Angeles Public Library, System, 630 W. Fifth Street, Los Angeles, CA 90071, Phone: 213–627–7555.

Ventura County Library Services Agency, Ventura County Library, 651 E. Main Street, P.O. Box 771, Ventura, CA 93009, Phone: 805–654–2627.

Santa Barbara Public Library, 1021 Anacapa Street, P.O. Box 1019, Santa Barbara, CA 93102, Phone: 805–962–7653.

San Luis Obispo City-County Library, P.O. Box X, San Luis Obispo, CA 93406, Phone: 805–543–1730.

Monterey County Library, 26 Central Avenue, Salinas, CA 93901, Phone: 408–424–8611.

Coquille Public Library, 105 N. Birch Street, Coquille, OR 97423, Phone: 503–396–2410.

Santa Cruz Public Library, 224 Church Street, Santa Cruz, CA 95060, Phone: 408–429–3533.

San Francisco Public Library, Civic Center, San Francisco, CA 94102, Phone: 415–558–4235.

Sacramento Public Library, 7000 Franklin Boulevard, Suite 540, Sacramento, CA 95823, Phone: 916–440–5926.

Marin County Free Library, Civic Center Administration Building, San Rafael, CA 94903, Phone: 415–479–1100.

Sonoma County Library, Third and E Streets, Santa Rosa, CA 95404, Phone: 707–545–0831.

Mendocino County Library, 105 N. Main Street, Ukiah, CA 95482, Phone: 707–468–4491.

Eureka-Humboldt County Library, 636 F Street, Eureka, CA 95501, Phone: 707–445–7284.
Del Norte County District Library, 450 H Street, Crescent City, CA 95531, Phone: 707–464–9616.
Curry Public Library, 330 Covin, P.O. Box 625, Goldbeach, OR 97444, Phone: 503–247–7246.
Columbia Basin College, Library, Media Center, 200 N. 20th Avenue, Pasco, WA 99301, Phone: 509–547–0511.
Douglas County Library System, Courthouse, Douglas Avenue, Roseburg, OR 97470, Phone: 503–673–1111.
Eugene Public Library, 100 W. 13th Avenue, Eugene, OR 97401, Phone: 503–687–5450.
Newport Public Library, 251 W. Olive Street, Newport, OR 97365.
Tillamook County Public Library, 210 Ivy Avenue, Tillamook, OR 94141, Phone: 503–842–4792.
Astoria Public Library, 450 Tenth Street, Astoria OR 97103, Phone: 503–325–6581.
Grays Harbor College, John Spellman Library, Aberdeen, WA 98520, Phone: 206–532–9020.
Port Townsend Public Library, 1228 Lawrence Street, Port Townsend, WA 98368, Phone: 206–385–3181.
North Olympic Library System, 2210 S. Peabody, Port Angeles, WA 98362, Phone: 206–457–4464.
Timberland Regional Library, 415 Sirdustrail SW, Olympia, WA 98502, Phone: 206–942–5001.
Charleston County Library, 404 King Street, Charleston, SC 29403, Phone: 803–723–1645.
Monroe County Public Library, 700 Fleming Street, Key West, FL 30040, Phone: 305–294–7100.
Miami-Dade Public Library System, One Biscayne Blvd., Miami, FL 33132, Phone: 305–579–5001.
Palm Beach County Public Library System, 3650 Summit Blvd., West Palm Beach, FL 33406, Phone: 305–686–0895.
Volusia County Public Libraries, City Island, Daytona Beach, FL 32014, Phone: 904–353–8374.
Indian River County Library, 1028 20th Place, Vero Beach, FL 32960, Phone: 305–567–4111.
Jacksonville Public Library System, Haydon Burns Library, 122 N. Ocean Street, Jacksonville, FL 32202, Phone: 904–633–6870.
Brunswick-Glynn County Regional Library, 208 Glouster Street, Brunswick, GA 31520, Phone: 912–246–7360.
Chatham-Effingham-Liberty Regional Library, Savannah Public Library, 2002 Bull Street, Savannah, GA 31401, Phone: 912–234–5127.
New York Public Library, Astor, Lennox & Tilden Foundations Library, Fifth Avenue and 42nd Street, New York, NY 10018, Phone: 212–790–6262.
Georgetown County Memorial Library, Highmarket & Screven, Drawer D, Georgetown, SC 92440, Phone: 803–546–2521.
New Hanover County Public Library, 409 Market Street, Wilmington, SC 28401, Phone: 919–763–3303.
Onslow County Public Library, 501 Davis Avenue, Jacksonville, NC 28540, Phone: 919–347–2592.
Dare County Library, Box 966, Manteo, NC 27954, Phone: 919–473–2372.
Norfolk Public Library, 301 E. City Hall Avenue, Norfolk VA 23510.
Georgetown Public Library, 10 W. Pine Street, Georgetown, DE 19947, Phone: 307–865–7959.
Cape May County Library, Mechanic Street, Cape May Court House, NJ 08216, Phone: 609–456–7837.
Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753, Phone: 201–349–6200.
Wake County Department of the Public Library, 104 Fayetteville Street Mall, Raleigh, NC 27601, Phone: 919–755–6077.
Sacramento Public Library, Central Library, 828 I Street, Sacramento, CA 95814, Phone: 916–449–5203.
New Haven Free Public Library, 133 Elm Street, New Haven, CT 06510, Phone: 203–562–0151.
Newport Public Library, Aquidneck Park, Box 8, Newport, RI 02840.
Boston Public Library, 666 Boylston Street, Box 286, Boston, MA 02117, Phone: 617–536–5400.
Portland Public Library, Baxter Library, 619 Congress Street, Portland, ME 04101, Phone: 207–773–4761.
Ellsworth City Library, 46 State Street, Ellsworth, ME 04605, Phone: 207–667–2307.
Richland County Public Library, 1400 Sumter Street, Columbia, SC 29201, Phone: 803–799–9084.
Aiken-Bamberg-Barnwell-Edgefield Regional Library, 224 Laurens Street, Box 909, Aiken, SC 29801, Phone: 803–648–8961.
Richland County Public Library, John Hughes Cooper Branch, 5317 Trenholm Road, Columbia, SC 29204, Phone: 803–787–3462.
Richland County Public Library, Devine Street Branch, 2728 Devine Street, Columbia, SC 29205, Phone: 803–799–5873.
Sacramento Public Library, Arcade Branch, 2443 Marconi Avenue, Sacramento, CA 95821, Phone: 916–483–5061.
Sacramento Public Library, Arden Branch, 891 Watt Avenue, Sacramento, CA 95825, Phone: 916–483–6361.
Sacramento Public Library, Martin Luther King Regional Branch, 7340 24th Street Bypass, Sacramento, CA 95822, Phone: 916–421–3115.
Wake County Public Library, 104 Fayetteville Street Mall, Raleigh, NC 27601, Phone: 919–755–6077.
Wake County Public Library, Richard B. Harrison Branch, 1313 New Bern Avenue, Raleigh, NC 27610, Phone: 919–755–6097.
Public Documents Room, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612, Phone: 415–273–4135.
Public Documents Room, Federal Building (Science Center), Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550 Richland, WA 99351, Phone: 509–376–7411.
Z. J. Loussac Public Library, 427 F Street, Anchorage, Alaska 99501, Phone: 907–264–4481.
Hawaii Regional Library, 300 Waianueneu Ave., Hilo, Hawaii 96720.
Richland County Public Library, St. Andrews Branch, 130 Lancewood Road, Columbia, SC 29210, Phone: 803–772–6675.
Timberland Regional Library, South Bend Branch, First and Pacific, South Bend, WA 98586, Phone: 206–875–5523.
Timberland Regional Library, W. H. Abel Memorial Branch, 125 Main Steet, Montesano, WA 98563.
Timberland Regional Library, Olympia Branch, Seventh Franklin, Olympia, WA 98501, Phone: 206–352–0595.
Public Documents Room, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801, Phone: 803–725–6211.
Public Documents Room, U.S. Department of Energy, Forrestal Building, Room 1E090, 1000 Independence Ave., S.W., Washington, D.C. 20585, Phone: 202–252–5575.
The Juneau Memorial Library, 114 West 4th Street, Juneau, Alaska 99801, Phone: 907–586–2429.
Kodiak Public Library, P.O. Box 985, Kodiak, Alaska 99615, Phone: 907–486–3312.
Kaimuki Regional Library, 1041 Koko Hd. Ave., Honolulu, Hawaii 96816.
Maui Regional Library, 251 High Street, Wailuka, Hawaii 96793.
Kauai Regional Library, 4344 Hardy Street, Lihue, Hawaii 96766.
Pearl City Regional Library, 1138 Waimano Home Rd., Pearl City, Hawaii 96782.

For general information on the Navy EIS process contact: Mr. Edward W. Johnson, Office of the Chief of Naval Operations (OPNAV–45), Department of the Navy, Washington, D.C. 20350, Telephone: (202) 697–3689.

Dated: December 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82–34585 Filed 12–21–82; 8:45 am]

BILLING CODE 3810–AE–M

Relocation of Navy Personnel From Leased Space to Government-Owned Office Space, Washington, D.C.; Public Hearings and Availability of Draft Environmental Impact Statement

Notice is hereby given that two public hearings will be held for the purpose of receiving oral and written comments concerning the Draft Environmental Impact Statement (DEIS) on the potential consolidation of Navy administrative offices now located in leased buildings in the Washington, D.C., area. Potentially affected by this consolidation are approximately 18,000 Navy military and civilian employees now working at thirteen locations in the District of Columbia, Maryland, and Virginia, with the greatest number in the northern Virginia suburbs of Washington.

The DEIS documents the impact of implementing the consolidation at each of four alternative sites: (1) The Washington Navy Yard/Southeast Federal Center tract in southeast Washington, D.C.; (2) the Naval Surface

Weapons Center at White Oak, Maryland; (3) the Pentagon site in Arlington, Virginia; and (4) the Crystal City complex of buildings, also in Arlington, Virginia.

The public hearings will be held on January 18, 1983, at 7:00 p.m., at the Aurora Hills Recreation Center, 735 South Hayes Street (South Hayes at 18th Street, near Crystal City), Arlington, Virginia, and on January 19, 1983, at 7:00 p.m., in Room 201, Building 172, the Washington Navy Yard, Washington, D.C. (gate guards will direct visitors to Building 172 at the Navy Yard).

At the hearings, a short presentation will be given describing the consolidation, and summarizing the major impacts associated with the alternative consolidation sites. After the presentation, there will be an opportunity for public and agency comment. Persons wishing to speak at the hearings may register by contacting EDAW, Inc., Attention: Tony Duncanson, 601 Prince Street, Alexandria, Virginia 22314, telephone 836–1414. Speakers may also register on the evening of either hearing by completing a registration card at the door. Oral statements at the hearings will be limited to five minutes. Lengthy comments should be submitted in writing and summarized orally. Only registered speakers will be recognized. Written comments are not required, but are encouraged to ensure accuracy. Written comments will be accepted at the hearings, or at the above address during normal business hours before or after the hearings, through January 24, 1983.

To facilitate public review, copies of the DEIS have been placed in a number of public libraries in the Washington, D.C. area. Persons wishing to examine a copy at one of these locations may contact EDAW, Inc., at the above address and telephone number for the name and location of the nearest public library at which copies of the DEIS have been placed.

Dated: December 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-34584 Filed 12-21-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since December 9, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thursday, December 9, 1982 (47 FR 55414).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252–2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare the comments will prevent you from submitting them promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., December 10, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

From No.	From title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-3	Quarterly Coal Consumption Report—Manufacturing Plants.	Extension	Quarterly	Mandatory	Manufacturing plants known to use coal for uses other than coke production.	1,100	2,200	EIA-3 collects information on coal stocks, receipts, prices and amounts consumed. The information is published in the Quarterly Coal Report and the Annual Report to Congress.
EIA-5	Coke Plant Report—Quarterly	Extension	Quarterly	Mandatory	Coke Plants	49	1176	EIA-5 data are used to track metallurgical coal receipts/cost/consumption/stocks and coke production/use/sales/stocks. The data are published in the Quarterly Coal Report and the Annual Report to Congress.
EIA-5A	Coke Plant Report—Annual Supplement.	Extension	Quarterly	Mandatory	Coke Plants	49	637	EIA-5A data are used to track coke ovens, coking capacity, crude coal chemical materials production/use/sales/stocks, and coal receipts/quantities/origin and related data. The data are published in the Oct.-Dec. issue of the Quarterly Coal Report and in the Annual Report to Congress.

DOE FORMS UNDER REVIEW BY OMB—Continued

From No.	From title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FERC-516.	Electric Rate Filings	Extension	On occasion	Mandatory	Public Utilities-Electric	170	700,000	The Federal Power Act requires each utility which has sales for resale or transmits energy in interstate commerce to file the rate schedules for such sales, together with related contracts and service conditions. The data are required to determine the reasonableness of rates.
FERC-550.	Oil Pipelene Rates: Tariff Filings.	Extension	On occasion	Mandatory	Oil Pipeline Companies	125	11,300	Data are used by FERC to establish the just and reasonable rates that may be charged by oil pipeline companies.
FERC-570.	Recordkeeping Requirements for Certain Sales of Natural Gas.	New	NA-Recordkeeping Requirement.	Mandatory	Natural Gas Producers	5,000	500	In relation to first sales of gas under Sections 105, 106(b) and 109 of the Natural Gas Policy Act of 1978 (NGPA), books, records, and contracts must be retained by the seller for a period of three years to enable the Commission staff to audit for compliance with the maximum ceiling price permitted by these sections.

[FR Doc. 82-34621 Filed 12-21-82; 8:45 am]
BILLING CODE 6450-01-M

Office of Energy Research

Light Water Reactor Safety R&D Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor Safety R&D Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: January 18, 1983, from 9 a.m. to 5 p.m.

Place: Department of Energy, Room 8E-089, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

Contact: Charles E. Cathey, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585, telephone: 202/252-8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- Introduction of members of Panel.
- Discussion of the Panel's charge.
- Discussion of initial work plan.
- Future meeting schedule.
- Briefings on DOE management plan for LWR Safety R&D.
- In the event that business is not completed by 5 p.m. on January 18, the meeting will continue at 9 a.m. on January 19 in the same room.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 P.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on December 16, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 82-34620 Filed 12-21-82; 8:45 am]
BILLING CODE 6450-01-M

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and time: Monday, January 10, 1983—9:00 a.m. to 5:00 p.m. Tuesday, January 11, 1983—9:00 a.m. to 5:00 p.m.

Place: Lawrence Livermore National Laboratory, Building 111, Room Q-114, Conference Room A, Livermore, California.

Contact: Lenore R. Ledman, Office of Fusion Energy, ER-50.2, U.S. Department of Energy, Germantown—Room G-226, Washington, DC 20545, Telephone: 301/353-3598.

Purpose of the committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Tentative Agenda:

- Panel #3 findings and recommendations on Tokamak Fusion Test Reactor (TFTR) upgrade options—H. Forsen
  - Introduction and review of charges
  - Technical basis and requirements
  - Description of upgrade options
  - Summary
  - Findings
- Magnetic Fusion Advisory Committee discussion and recommendations on TFTR upgrade option.
- Review of charges to Panel #3 on Mirror Fusion Test Facility (MFTF-B) upgrade options—R. Davidson.

- New charges to Magnetic Fusion Advisory Committee.
- Review of Department of Energy Charges—J. Clarke
- Charges to Panel(s)—R. Davidson.
- Discussion.
- Public Comment.

Public participation: The meetinfg is open to the public. Written statements may be filed with the committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Lenore R. Ledman at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available approximately 30 days following the meeting.

Issued at Washington, DC, on December 16, 1982.

Howard H. Raiken,

Deputy Advisory Committee, Management Officer.

[FR Doc. 82-34622 Filed 12-21-82; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						OHIO DEPARTMENT OF NATURAL RESOURCES			
-ACTION PETROLEUM INC				RECEIVED:	11/16/82	JA: OH			
8309337		3400722091		103	107-TF	WHITELY #1	NEW LYME	30.0	P O I ENERGY INC
-ALAN HARRIS				RECEIVED:	11/16/82	JA: OH			
8309423		3416722683		108		HARRIS #1		0.2	RIVER GAS CO
-ALLEN M ANDERSON				RECEIVED:	11/16/82	JA: OH			
8309363		3416726057		103		JAMES & VIRGINIA VIA #1	WARREN	10.0	
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED:	11/16/82	JA: OH			
8309355		3415723458		107-TF		ARTH #1	SALEM	15.0	
8309346		3415521554		107-TF		BURTON & FRANCES DUCK #1	BLOOMFIELD	15.0	
8309347		3415521555		107-TF		BURTON & FRANCES DUCK #2	BLOOMFIELD	15.0	
8309348		3415521562		107-TF		BURTON & FRANCES DUCK #3	BLOOMFIELD	15.0	
8309349		3415521564		107-TF		BURTON & FRANCES DUCK #4	BLOOMFIELD	15.0	
8309350		3412122227		107-TF		H BOND #1 (687)	BUFFALO	15.0	
8309352		3412122229		107-TF		H BOND #2 (690)	BUFFALO	15.0	
8309340		3409921202		107-TF		J GREENELSEN #1	SMITH	15.0	
8309344		3415521371		107-TF		JEWELL #1	BLOOMFIELD	15.0	
8309345		3415521424		107-TF		JEWELL #2	BRISTOL	15.0	
8309353		3415723444		107-TF		LAHMERS #1	SALEM	15.0	
8309354		3415723445		107-TF		LAHMERS #2	SALEM	15.0	
8309338		3405922658		107-TF		MITCHELL #1	ADAMS	15.0	
8309339		3409921198		107-TF		SCHISLER #1	BERLIN	15.0	
8309342		3409921267		107-TF		SCHROEDER #1	SMITH	15.0	
8309341		3409921230		107-TF		WEIZENECKER UNIT #2	SMITH	15.0	
8309351		3412132228		107-TF		WILLIAMS - BOND (696) #1	BUFFALO	15.0	
8309343		3412121546		107-TF		WILLIAMS - BOND (699) #2	BUFFALO	15.0	
-AMERICAN WELL MANAGEMENT COMPANY				RECEIVED:	11/16/82	JA: OH			
8309356		3411521998		107-TF		PRICE #1	DEERFIELD	450.0	COLUMBIA GAS TRAN
8309357		3411925353		107-TF		SHOOK #1	CASS	385.0	NATIONAL GAS & OI
8309362		3416320407		107-TF		TURNER #1	SWAN	1.0	COLUMBIA GAS TRAN
8309359		3416320402		107-TF		WHITE #1	SWAN	2.0	COLUMBIA GAS TRAN
8309361		3416320404		107-TF		WHITE #2	SWAN	720.0	COLUMBIA GAS TRAN
8309360		3416320403		107-TF		WRIGHT #1	SWAN	298.0	COLUMBIA GAS TRAN
8309358		3416320401		107-TF		WRIGHT #2	SWAN	9.0	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC				RECEIVED:	11/16/82	JA: OH			
8309364		3410322728		107-TF		FIXLER-KUROWSKI #1	SHARON	18.3	COLUMBIA GAS TRAN
-BANDS COMPANY INC				RECEIVED:	11/16/82	JA: OH			
8309365		3407523657		103		JOHN & ROBERT STARNER #1	KILLBUCK	1.5	COLUMBIA GAS TRAN
-BASIN PRODUCING CO				RECEIVED:	11/16/82	JA: OH			
8309366		3413322917		103	107-TF	PRASKY UNIT #1 PERMIT 2917	WINDHAM	10.0	
-BECK OIL & GAS CO				RECEIVED:	11/16/82	JA: OH			
8309367		3403124789		103	107-TF	DOTY #1	WILLS CREEK	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BELDEN & BLAKE & CO 80				RECEIVED: 11/16/82		JA: OH			
8309370		3415123692		103		VOGLEY ORCHARD #2 -34-1215	WAYNESBURG	36.5	
8309368		3401921566		103		W & N DANNER 34-1217	DELLROY	36.5	
8309369		3401921599		103		WHITACRE-GREER #37 - 34-1250	BROWN	36.5	
-BERMAN J SHAFER				RECEIVED: 11/16/82		JA: OH			
8309518		3415321153		103		R B STOUT #1	BATH	7.5	EAST OHIO GAS CO
8309517		3415321152		103		R B STOUT #2	BATH	7.5	EAST OHIO GAS CO
-BERRESFORD ENTERPRISES INC				RECEIVED: 11/16/82		JA: OH			
8309372		3416727264		103		LOUIS SCHILLING #11	BEVERLY	0.0	
-CARBONIT EXPLORATION INC				RECEIVED: 11/16/82		JA: OH			
8309375		3411122058		107-DV		BLAIR #1	WASHINGTON	0.0	TEXAS EASTERN TRA
8309374		3411122050		107-DV		KNOWLTON #1 "A" NORTH	WASHINGTON	0.0	TEXAS EASTERN TRA
8309373		3411122028		107-DV		KNOWLTON #1B SOUTH	WASHINGTON TWP	0.0	TEXAS EASTERN TRA
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED: 11/16/82		JA: OH			
8309376		3411923579		108		OHIO POWER 4-E		17.1	EAST OHIO GAS CO
-CLOVER OIL CO				RECEIVED: 11/16/82		JA: OH			
8309377		3400523481		107-TF		DEAN & DONNA SHEPPARD #1	WEST SALEM	7.0	COLUMBIA GAS TRAN
-CONSOLIDATED RESOURCES OF AMERICA				RECEIVED: 11/16/82		JA: OH			
8309379		3416320476		103	107-TF	LELAND MINTON #1	JACKSON	3.7	COLUMBIA GAS TRAN
8309378		3405923142		103	107-TF	WALKER-HUNTER UNIT #1	SENECAVILLE	4.5	COLUMBIA GAS TRAN
-DEER CREEK INC				RECEIVED: 11/16/82		JA: OH			
8309381		3411926264		107-TF		M MATHEWS #1	OTSEGO	15.0	
-DOME PRODUCING				RECEIVED: 11/16/82		JA: OH			
8309382		3410322868		107-TF		DONNELLY #1	HINCKLEY	15.0	COLUMBIA GAS TRAN
8309383		3410323139		107-TF		KRASNY #1	HINCKLEY	20.0	COLUMBIA GAS TRAN
-DWIGHT MARTIN				RECEIVED: 11/16/82		JA: OH			
8309452		3416923391		107-TF		BORMAN 1A	WEST SALEM	10.0	
-EDCO DRILLING & PRODUCING INC				RECEIVED: 11/16/82		JA: OH			
8309384		3403123426		108		JONES BL-3E		18.0	COLUMBIA GAS TRAN
8309385		3403124220		108		JONES BL-4E		18.0	COLUMBIA GAS TRAN
8309386		3407522343		108		WATTS SM-1A		18.0	COLUMBIA GAS TRAN
8309387		3407522365		108		WATTS SM-2A		18.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED: 11/16/82		JA: OH			
8309388		3400722039		103	107-TF	NEALEN #1	ORWELL	18.0	
-ENTERPRISE ENERGY CORP				RECEIVED: 11/16/82		JA: OH			
8309390		3416320693		103	107-TF	BENEDICT #4	SWAN	27.3	COLUMBIA GAS TRAN
8309391		3416320729		103	107-TF	D DAVIS #8	SWAN	36.5	COLUMBIA GAS TRAN
8309389		3405923240		103	107-TF	MID-OHIO COAL #13	JACKSON	27.3	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED: 11/16/82		JA: OH			
8309393		3415723667		103	107-TF	BENNER #1	RUSH	0.0	
8309392		3409920947	D	107-RT		BOWMAN CACKOVIC #1	ELLSWORTH	0.0	AMERICAN ENERGY S
8309394		3415723736		103	107-TF	ROY WHITE #1	MILL	0.0	
-FORAKER PRODUCING COMPANY INC				RECEIVED: 11/16/82		JA: OH			
8309405		3412725020		107-TF		BROWN #2	DEAVERTOWN	40.0	
8309396		3411925201		107-TF		BRUCE #2	NEWTON	10.0	
8309395		3411924781		107-TF		CANNON #2	NEWTON	20.0	
8309400		3412724575		107-TF		GLADDEN #1	DEAVERTOWN	10.0	
8309404		3412724980		107-TF		HAGAN-REICHLEY #2	DEAVERTOWN	25.0	
8309403		3412724978		107-TF		HAGAN-REICHLEY #4	DEAVERTOWN	20.0	
8309398		3412724568		107-TF		HARRIS-RICKETTS #3	BEARFIELD	25.0	
8309399		3412724569		107-TF		HARRIS-RICKETTS #4	DEAVERTOWN	30.0	
8309410		3412725030		107-TF		HARRIS-RICKETTS #5	DEAVERTOWN	25.0	
8309411		3412725031		107-TF		HARRIS-RICKETTS #6	DEAVERTOWN	30.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309412		3412725032		107-TF		HARRIS-RICKETTS #7	DEAVERTOWN	25.0	
8309402		3412724705		107-TF		HOLCOMB #1	DEAVERTOWN	25.0	
8309413		3412725420		107-TF		MARLOW 2-A	HARRISON	15.0	
8309408		3412725027		107-TF		PETTET #1	DEAVERTOWN	30.0	
8309409		3412725028		107-TF		PETTET #3	DEAVERTOWN	40.0	
8309397		3411925227		107-TF		WILKISON #1	NEWTON	2.0	
8309407		3412725025		107-TF		WORLEY-DEAVER #3	DEAVERTOWN	20.0	
8309401		3412724695		107-TF		WORLEY-DEAVERS #1	DEAVERTOWN	25.0	
8309406		3412725024		107-TF		WORLEY-DEAVERS #2	DEAVERTOWN	20.0	
-GASEARCH INC				RECEIVED:	11/16/82	JA: OH			
8309414		3400922310		103		BAIRD BROS #1-B	YORK	10.0	COLUMBIA GAS TRAN
8309415		3415522253		103	107-TF	DETWEILLER #2	MESOPOTAMIA	20.0	YANKEE RESOURCES
-GENERAL ELECTRIC CO				RECEIVED:	11/16/82	JA: OH			
8309416		3400722020		103	107-TF	RING #1	CONNEAUT	20.0	EAST OHIO GAS CO
-GEO ENERGY INC				RECEIVED:	11/16/82	JA: OH			
8309417		3411926235		107-TF		MCCALL #22-3	HIGHLAND	15.5	
-GRAHAM-MICHAELIS CORP				RECEIVED:	11/16/82	JA: OH			
8309419		3406920101		102-2		RETTIG #1-32	DAMASCUS	9.1	
8309418		3406920075		102-4		SHIDLER #1-4	RICHFIELD	27.4	
-GREEN GAS COMPANY				RECEIVED:	11/16/82	JA: OH			
8309420		3409321169		107-TF		ENGLEBROOK PARK #2	COLUMBIA	30.0	COLUMBIA GAS TRAN
-GREENLAND PARTNERSHIP	82-1			RECEIVED:	11/16/82	JA: OH			
8309421		3407322662		103		BILIKAM #1	FALLS GORE	0.0	COLUMBIA GAS TRAN
-HOPCO RESOURCES INC				RECEIVED:	11/16/82	JA: OH			
8309424		3403124729		103	107-TF	MAYSE #1	KEENE	12.0	COLUMBIA GAS TRAN
8309425		3403124884		103	107-TF	PEOPLES INC #2	KEENE	12.0	COLUMBIA GAS TRAN
-INDUSTRIAL NATURAL GAS CORP				RECEIVED:	11/16/82	JA: OH			
8309426		3404120300		103		D JACKSON #1	HARLEM	365.0	
-J D DRILLING CO				RECEIVED:	11/16/82	JA: OH			
8309440		3410522339		107-TF		ARNOLD WEBSTER #1	POMEROY (TO 1648')	4.0	COLUMBIA GAS TRAN
8309442		3410522344		107-TF		ARNOLD WEBSTER #3	POMEROY (TO 1800')	5.0	COLUMBIA GAS TRAN
8309441		3410522340		107-TF		ARNOLD-WEBSTER #2	POMEROY (TO 1616')	7.0	COLUMBIA GAS TRAN
8309427		3410522003		107-TF		CHARLES ESKEW #1	SALISBURY (TO 1530')	3.0	COLUMBIA GAS TRAN
8309437		3410522200		107-TF		DALE & SHIRLEY PRIDDY #2	RUTLAND (TO 1514')	3.0	COLUMBIA GAS TRAN
8309429		3410522021		107-TF		DALE PRIDDY #1	RUTLAND (TO 1618')	3.0	COLUMBIA GAS TRAN
8309433		3410522108		107-TF		HANSON & HOWELL #1	RUTLAND (TO 1566')	3.0	COLUMBIA GAS TRAN
8309436		3410522118		107-TF		HARRY OSBORNE #2	SALISBURY (TO 1580')	3.0	COLUMBIA GAS TRAN
8309434		3410522109		107-TF		LELAND CLONCH #1	RUTLAND (TO 1720')	4.0	COLUMBIA GAS TRAN
8309435		3410522110		107-TF		LELAND CLONCH #2	RUTLAND (TO 1722')	3.0	COLUMBIA GAS TRAN
8309428		3410522015		107-TF		MARIE STEINER #1	RUTLAND (TO 1562')	3.0	COLUMBIA GAS TRAN
8309432		3410522090		107-TF		RAYMOND J SMITH #2	RUTLAND (TO 1740')	9.0	COLUMBIA GAS TRAN
8309431		3410522089		107-TF		RAYMOND J SMITH #3	RUTLAND (TO 1760')	4.0	COLUMBIA GAS TRAN
8309430		3410522030		107-TF		RICHARD MEES #1	SHADE (TO 1694')	7.0	COLUMBIA GAS TRAN
8309438		3410522324		107-TF		VIRGIL PARSONS #1	POMEROY (TO 1754')	5.0	COLUMBIA GAS TRAN
8309439		3410522325		107-TF		VIRGIL PARSONS #2	POMEROY (TO 1784')	5.0	COLUMBIA GAS TRAN
-J P WHITE				RECEIVED:	11/16/82	JA: OH			
8309531		3400720377	D	107-RT		WESTFALL #1	DENMARK	0.0	EAST OHIO GAS CO
-JACK W CRISP & GLENNA R CRISP				RECEIVED:	11/16/82	JA: OH			
8309380		3410522514		103		CRISP #3	RUTLAND	3.5	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED:	11/16/82	JA: OH			
8309371		3410323056		103	107-TF	KUBALA #2	HINCKLEY	72.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED:	11/16/82	JA: OH			
8309453		3407523902		107-TF		MILLER-SCHROCK-LEHMAN #1	HOLMES	10.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LAKE REGION OIL INC				RECEIVED: 11/16/82 JA: OH					
8309444		3402920910		103	107-TF	DONALD SCHNEIDER #1	KNOX	12.0	COLUMBIA GAS TRAN
8309446		3416923400		103	107-TF	KENNETH L ZUERCHER #1	SUGAR CREEK	15.0	COLUMBIA GAS TRAN
8309445		3402920920		103	107-TF	PAUL COURTNEY #1	BUTLER	15.0	COLUMBIA GAS TRAN
8309447		3416923413		103	107-TF	THOMAS W BROWN #1	SUGAR CREEK	15.0	COLUMBIA GAS TRAN
-LBJ DRILLING DBA JEFF	MORAN			RECEIVED: 11/16/82 JA: OH					
8309443		3408924389		103		PAUL F CROUCH #1	HICKMAN	18.0	
-LEADER EQUITIES INC				RECEIVED: 11/16/82 JA: OH					
8309448		3411522828		103	107-TF	DOTY #3	MEIGSVILLE	15.0	
8309449		3411522839		103	107-TF	HANN #3	MEIGSVILLE	14.0	
-MAGNUM RESOURCES INC				RECEIVED: 11/16/82 JA: OH					
8309450		3416727244		103		KRIS-MAR #1 - WARREN TWP	BEREA GRIT	8.0	RIVER GAS CO
-MARLINE OIL CORP				RECEIVED: 11/16/82 JA: OH					
8309451		3416726431		107-DV		USA/M JOY #1	BUCKEYE PROSPECT	5.5	COLUMBIA GAS TRAN
-MORGAN-PENNINGTON INC				RECEIVED: 11/16/82 JA: OH					
8309454		3407523858		103		HOUSEHOLDER #1	MONROE	7.2	COLUMBIA GAS TRAN
-NEW FRONTIER EXPLORATION INC				RECEIVED: 11/16/82 JA: OH					
8309460		3415123624		103	107-TF	BEDNAR UNIT #1	WASHINGTON	22.0	
8309457		3406720499		103	107-TF	BERNADINE AKKERMAN #1	MONROE	18.0	
8309459		3411522857		103	107-TF	CHARLES GREER #1	PENN	22.0	COLUMBIA GAS TRAN
8309456		3406720478		103	107-TF	EARL SHEEHAN #3	MONROE	20.0	
8309455		3405923164		103	107-TF	HAROLD LEPAGE #1	CENTER	20.0	
8309458		3410322794		103	107-TF	ROBERT BOWMAN #1	WADSWORTH	18.0	AMERICAN ENERGY $
-NOBLE OIL CORP				RECEIVED: 11/16/82 JA: OH					
8309474		3413321247		107-TF		GEIB #1	EDINBURG	20.0	YANKEE RESOURCES
8309477		3413322430		107-TF		KURZ UNIT #1	FREEDOM	20.0	YANKEE RESOURCES
8309475		3413321614		107-TF		LANGE #1	FREEDOM	20.0	YANKEE RESOURCES
8309476		3413322391		107-TF		LANGE #3	FREEDOM	20.0	YANKEE RESOURCES
8309478		3413322433		107-TF		LANGE #5	FREEDOM	20.0	YANKEE RESOURCES
-NOWHART DRILLING CO				RECEIVED: 11/16/82 JA: OH					
8309462		3416700794		108		ARMSTRONG #1		0.9	RIVER GAS CO
8309463		3416700795		108		ARMSTRONG #2		0.9	RIVER GAS CO
8309467		3416720488		108		DICKSON - #12		0.3	RIVER GAS CO
8309464		3416720394		108		DICKSON #6		0.3	RIVER GAS CO
8309465		3416720404		108		DICKSON #6-A		0.3	RIVER GAS CO
8309461		3416700793		108		DICKSON #7		0.3	RIVER GAS CO
8309466		3416720448		108		DICKSON #9		0.3	RIVER GAS CO
8309468		3416721495		108		GRAHAM & CLINE - #1		0.5	RIVER GAS CO
8309473		3416722908		108		GRAHAM-CLINE - #9		0.5	RIVER GAS CO
8309469		3416721543		108		GRAHAM-CLINE -- #2		0.5	RIVER GAS CO
8309470		3416721636		108		GRAHAM-CLINE -- #3		0.5	RIVER GAS CO
8309471		3416722077		108		GRAHAM-CLINE -- #5		0.5	RIVER GAS CO
8309472		3416722392		108		GRAHAM-CLINE -- #7		0.5	RIVER GAS CO
-OHIO PURE OIL CORP				RECEIVED: 11/16/82 JA: OH					
8309479		3416922890	D	107-TF		FRANK BISHOP #1	PLAIN	0.0	
-ONEAL PETROLEUM INC				RECEIVED: 11/16/82 JA: OH					
8309482		3411522758		103		HARSHBERGER UNIT #1	PENN	0.0	COLUMBIA GAS TRAN
8309480		3411522392		103		J ROGERS #1	PENN	0.0	COLUMBIA GAS TRAN
8309481		3411522635		103		J ROGERS #2	PENN	0.0	COLUMBIA GAS TRAN
-ORION ENERGY CORP				RECEIVED: 11/16/82 JA: OH					
8309484		3416923351		107-TF		HARLE #2	WEST SALEM	25.0	COLUMBIA GAS TRAN
8309485		3416923353		107-TF		HARLE #3	CHESTER	12.0	COLUMBIA GAS TRAN
8309483		3415723689		103	107-TF	MICK #1	UNION	40.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-OXFORD OIL CO				RECEIVED: 11/16/82 JA: OH					
8309486		3408924519		103		SAULTZ-WOLFORD #1	PERRY	11.0	
-PETRO EVALUATION SERVICES INC				RECEIVED: 11/16/82 JA: OH					
8309489		3408520385		103	107-TF	RICHARD P WEST #1	PERRY	30.0	EAST OHIO GAS CO
8309488		3408520357		103	107-TF	RICHARD P WEST #2	PERRY	30.0	EAST OHIO GAS CO
-PETRO-LEWIS CORPORATION				RECEIVED: 11/16/82 JA: OH					
8309490		3405921377		108		HARDING #1	SPENCER TWP	2.1	EAST OHIO GAS CO
-PETROLEUM SECURITIES FUND - 80				RECEIVED: 11/16/82 JA: OH					
8309491A		3411925583		103		PARKS UNIT #2 ALTON & DUANE	UNION	32.0	
8309491B		3411925583	D	107-TF		PARKS UNIT #2 ALTON & DUANE	UNION	32.0	
-POI ENERGY INC				RECEIVED: 11/16/82 JA: OH					
8309487		3400721683	D	107-DV		LAKE CARDINAL #5	ROME	7.5	
-POMSTONE CORP				RECEIVED: 11/16/82 JA: OH					
8309492		3403123493		102-3		BRICE DREHER #1	KEENE	29.0	
8309493		3403123893		102-3		STANLEY MIZER #1	ADAMS	330.0	
8309494		3403124738		102-3		STANLEY MIZER #3	ADAMS	270.0	
-POWER RESOURCES INC				RECEIVED: 11/16/82 JA: OH					
8309496		3415723772		107-TF		CONOTTON LAND #13	UNION	0.0	M B OPERATING CO
8309495		3415723763		103		CONOTTON LAND CO #12	WARREN	0.0	M B OPERATING CO
-QUALITY OIL & GAS CORP				RECEIVED: 11/16/82 JA: OH					
8309497		3402920883		107-TF		CLARK HAHN #1	KNOX	150.0	COLUMBIA GAS TRAN
-RALPH H HAMBLIN				RECEIVED: 11/16/82 JA: OH					
8309422		3403124025		103		RALPH H HAMBLIN #2 RICH	TIVERTON	10.0	COLUMBIA GAS TRAN
-REPUBLIC STEEL CORP				RECEIVED: 11/16/82 JA: OH					
8309498		3411925861		103	107-TF	CONSOLIDATION COAL CR #11	MADISON	7.2	TENNECO OIL CO
8309499		3411925862		103	107-TF	CONSOLIDATION COAL CR #12	SALEM	7.0	TENNECO OIL CO
8309500		3411925951		103	107-TF	CONSOLIDATION COAL CR #22	WASHINGTON	7.5	TENNECO OIL CO
8309501		3411925969		103	107-TF	CONSOLIDATION COAL CR #25	WASHINGTON	8.0	TENNECO OIL CO
8309502		3411926036		103	107-TF	CONSOLIDATION COAL CR #314	SALEM	8.0	TENNECO OIL CO
8309503		3411926308		103	107-TF	CONSOLIDATION COAL CR #33	MADISON	7.0	TENNECO OIL CO
8309504		3411926332		103	107-TF	CONSOLIDATION COAL CR #40	MADISON	8.0	TENNECO OIL CO
-RIMCO OPERATING INC				RECEIVED: 11/16/82 JA: OH					
8309509		3416923157		103	107-TF	B MILLER #7	CRESTON	12.0	COLUMBIA GAS TRAN
8309510		3416923300		103	107-TF	GALLAPOO #4	WOOSTER	12.0	COLUMBIA GAS TRAN
8309508		3416923142		103	107-TF	SNURE #4	WAYNE	12.0	COLUMBIA GAS TRAN
8309512		3416923316		103	107-TF	WAYNEDALE STOCK FARM #10	WOOSTER	12.0	COLUMBIA GAS TRAN
8309513		3416923317		103	107-TF	WAYNEDALE STOCK FARM #11	WOOSTER	12.0	COLUMBIA GAS TRAN
8309514		3416923318		103	107-TF	WAYNEDALE STOCK FARM #12	WOOSTER	12.0	COLUMBIA GAS TRAN
8309515		3416923323		103	107-TF	WAYNEDALE STOCK FARM #8	WOOSTER	12.0	COLUMBIA GAS TRAN
8309511		3416923315		103	107-TF	WAYNEDALE STOCK FARM #9	WOOSTER	12.0	COLUMBIA GAS TRAN
8309506		3416923020		103	107-TF	WEAVER #1	CHESTER	12.0	COLUMBIA GAS TRAN
8309507		3416923069		103	107-TF	WEAVER #2	CHESTER	12.0	COLUMBIA GAS TRAN
8309505		3416922711		103	107-TF	WEISER #3	CONGRESS	12.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED: 11/16/82 JA: OH					
8309516		3416727221		103		LONGFELLOW #2	GRANDVIEW	21.9	
-SHAMROCK EQUIPMENT CO				RECEIVED: 11/16/82 JA: OH					
8309519		3411926399		107-TF		T & M PORTER #2	HOPEWELL	25.0	NATIONAL GAS & OI
-STRATA CORP				RECEIVED: 11/16/82 JA: OH					
8309524		3412725518		107-TF		A & G FARMS #1	BEARFIELD	15.0	
8309523		3412725508		107-TF		HOLCOMB #1-A	BEARFIELD	15.0	
8309525		3412725563		107-TF		MCCONNELL #1	HARRISON	15.0	
8309521		3412725504		107-TF		PETTET #2	BEARFIELD TWP	0.0	
8309520		3412725034		107-TF		SCHWARTZEL #1	BEARFIELD	25.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309526		3412725711		107-TF		TAYLOR #5	CLAYTON	20.0	
8309522		3412725506		107-TF		WELSH #1	BEARFIELD	15.0	
-SWINGLE DRILLING INC				RECEIVED: 11/16/82 JA: OH					
8309527		3400922578		103		SUNDAY CREEK COAL CO #5	SOUTH CORNING OIL POO	12.0	
-TOWNER PETROLEUM CO				RECEIVED: 11/16/82 JA: OH					
8309528		3405923282		103	107-TF	SWICKARD M/HUNTSMAN J #1	FREEPORT	27.0	TENNESSEE GAS PIP
-TWINOAKS OIL & GAS				RECEIVED: 11/16/82 JA: OH					
8309530		3410323146		103	107-TF	ETELA-OLEKSIAK	GRANGER	11.0	COLUMBIA GAS TRAN
8309529		3403124834		103		J D SCHULER & D L WIDDER #3	MONROE	8.0	COLUMBIA GAS TRAN
-WITCO CHEMICAL CORP				RECEIVED: 11/16/82 JA: OH					
8309532		3415122304		108		E LOOMIS B #2		2.5	CANTON OIL & GAS

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (HHCF). An (* before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The application for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–DS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34518 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABCO ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8309598	F-04-055125	4221531206		103		H L MARTIN #2	PENITAS (8650)	33.1	VALERO TRANSMISSI
-AEC OIL & GAS				RECEIVED:	11/17/82	JA: TX			
8309796	F-7B-059558	4242933314		102-2		F T C LAKE #7 RRC LEASE #18898	REID-MCLENNAN (MISS)	350.0	PETROLEUM CORP OF
-AERO ENERGY INC				RECEIVED:	11/17/82	JA: TX			
8309545	F-03-046235	4214930998		102-2		GLENN #1	GIDDINGS (AUSTIN CHAL	122.4	CLAJON GAS CO
-ALPAR RESOURCES INC				RECEIVED:	11/17/82	JA: TX			
8309647	F-10-057751	4239330903		103		CHAMBERS #1-107	MENDOTA NORTHWEST (GR	219.0	
-AMERIND OIL CO				RECEIVED:	11/17/82	JA: TX			
8309702	F-08-059171	4213533835		103		COWDEN "L" #1	GOLDSMITH N (SAN ANDR	35.0	WESTAR TRANSMISSI
-AMINOIL USA INC				RECEIVED:	11/17/82	JA: TX			
8309542	F-02-045649	4229700000		102-4		EL PASO NATURAL GAS CO #6	CHAPA EAST (12400')	110.0	EL PASO NATURAL G
8309776	F-08-059525	4200332996		103		UNIVERSITY 28 "B" #7	SOUTH ANDREWS (WOLFCA	346.0	EL PASO NATURAL G
-ANADARKO PRODUCTION COMPANY				RECEIVED:	11/17/82	JA: TX			
8309681	F-10-058964	4221100000		103		HOLLAND "C" #2057	BUFFALO WALLOW (GRANI	170.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/17/82	JA: TX			
8309562	F-08-050582	4230130330		103	107-DP	MENTONE GAS UNIT #1-X	MOORE-HOOPER (ELLENBU	1460.0	LONE STAR GAS CO
-BANAM CORP				RECEIVED:	11/17/82	JA: TX			
8309605	F-7B-055638	4215131520		102-4		BLEVINS-STROUBE #1-7	SATURDAY EAST (CANYON	10.9	CONOCO INC
8309564	F-7B-050920	4215131455		102-4		CANFILL NO 2 WELL	SATURDAY EAST (CANYON	0.0	CONOCO INC
-BASIN OPERATING CO LTD				RECEIVED:	11/17/82	JA: TX			
8309658	F-06-058425	4200100000		103		MIRIAM MILES #1	DECKER SWITCH (PETTET	182.5	DELHI GAS PIPELIN
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309609	F-7C-055723	4210533864		103		ARCHO-CHILDRESS #2	OZONA CANYON SAND	0.0	INTER NORTH INC
-BLAKE HAMMAN				RECEIVED:	11/17/82	JA: TX			
8309541	F-09-045388	4236700000		108-ER		WALTER R BENNETT 30941	BOONSVILLE (BEND CONG	20.0	NATURAL GAS PIPEL
-BLANKS ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8309688	F-08-059041	4243131152		103	107-TF	MCENTIRE 26-1	CREDO E (CISCO UP)	146.0	INTRATEX GAS CO
-BURNETT OIL CO INC				RECEIVED:	11/17/82	JA: TX			
8309662	F-02-058550	4212331123		103		DANIELS #1	PROPOSED S DANIELS RA	84.0	VALERO TRANSMISSI
-CAROLINA GROUP INC				RECEIVED:	11/17/82	JA: TX			
8309694	F-7B-059138	4214300000		108		HERPLE-MURPHY #1	MORGAN MILL (MARBLE F	13.2	INTER NORTH INC
8309698	F-7B-059142	4214300000		108		MORRIS #1	MORGAN MILL (MARBLE F	12.3	INTER NORTH INC
8309695	F-7B-059139	4214300000		108		S H ATOR #2	HOUSTON RANCH (STRAWN	0.0	INTER NORTH INC
8309696	F-7B-059140	4214300000		108		TIPTON #2	MORGAN MILL (MARBLE F	3.3	INTER NORTH INC
8309697	F-7B-059141	4214300000		108		TIPTON #4	MORGAN MILL (MARBLE F	14.8	INTER NORTH INC
-CHALMERS OPERATING CO INC				RECEIVED:	11/17/82	JA: TX			
8309646	F-7B-057747	4242932265		108		LOLA BEN MASON 085803	MASON (LOWER STRAWN)	18.5	SOUTHWESTERN GAS
-CHARLES F HAAS				RECEIVED:	11/17/82	JA: TX			
8309600	F-02-055209	4223931733		102-4	103	M W MAURITZ #1	GANADO EAST (WILDCAT)	0.0	HOUSTON PIPE LINE
-CHESTER R UPHAM JR				RECEIVED:	11/17/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309549	F-7B-047803	4236300000		102-4		CLAYTON #2-C	NEW DISCOVERY - NO FI	0.0	SOUTHWESTERN GAS
8309591	F-7B-053889	4236300000		102-4		KESSLER #1-C	TOMERLIN (CONGL)	0.0	SOUTHWESTERN GAS
-CHEVRON U S A INC				RECEIVED:	11/17/82	JA: TX			
8309585	F-7C-053476	4241331176		103		NEVA WEST #1208	NEVA WEST (STRAWN)	27.0	ARCO OIL & GAS CO
8309741	F-8A-059444	4241532233		103		SACROC UNIT #77-5	KELLY-SNYDER	196.0	EL PASO NATURAL G
-COMANCHE INVESTMENTS				RECEIVED:	11/17/82	JA: TX			
8309618	F-7B-056477	4213333149		102-4		BIG MIKE #1	DAVENPORT (RANGER M)	19.9	LONE STAR GAS CO
-CONOCO INC				RECEIVED:	11/17/82	JA: TX			
8309628	F-04-057093	4242700000		102-4	103	T B SLICK EST H-536 #165	RINCON (VICKSBURG 650	329.0	TENNESSEE GAS PIP
-COTTON PETROLEUM CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309576	F-10-052834	4221131303		103		MARSH #1	BATES (MORROW LOWER)	0.0	UNITED TEXAS TRAN
-CRABTREE OIL CO				RECEIVED:	11/17/82	JA: TX			
8309685	F-08-059022	4249500000		108		BROWN-ALTMAN #1	KERMIT (YATES)	3.7	CABOT CORP
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:	11/17/82	JA: TX			
8309666	F-09-058628	4249700000		108		FAITH & BOYDSTON #1	BOONSVILLE	18.0	NATURAL GAS PIPEL
8309665	F-09-058627	4249700000		108		J D MATZENGER #1	BOONSVILLE	11.0	SOUTHWESTERN GAS
-D & B PETROLEUM INC				RECEIVED:	11/17/82	JA: TX			
8309557	F-10-049209	4248330964		103		ASHLEY #1	PANHANDLE EAST	0.0	WARREN PETROLEUM
8309558	F-10-049212	4248330989		103		BUBBA #2	PANHANDLE EAST	0.0	WARREN PETROLEUM
-DALPORT OIL CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309712	F-04-059273	4240931533		102-4		J CAMPBELL ESTATE #3	MIDWAY 5077	15.0	HOUSTON PIPELINE
8309716	F-04-059393	4240931631		103		J CAMPBELL ESTATE #4	MIDWAY 3600	13.0	HOUSTON PIPELINE
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309567	F-10-051706	4221131453		103		FRANK SHALLER "A" #4	CANADIAN SE	0.0	INTER NORTH INC
-DORCHESTER EXPLORATION INC				RECEIVED:	11/17/82	JA: TX			
8309657	F-10-058394	4221131356		103		LUCILLE WRIGHT #2	HUMPHREYS	0.0	
-DUVAL PRODUCTION INC				RECEIVED:	11/17/82	JA: TX			
8309682	F-04-058975	4213100000		103		D C R C #1	HAGIST RANCH (1030')	8.2	TENNESSEE GAS PIP
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/17/82	JA: TX			
8309536	F-10-0416621	4217923696		108-PB		CALLHAM #1	PANHANDLE - WEST	14.0	EL PASO NATURAL G
8309534	F-7C-33032	4243530555		108-PB		DEBERRY - BOYETT UNIT #2	SONORA CANYON UPPER	27.0	EL PASO NATURAL G
8309533	F-7C-025985	4243530862		108-PB		MECKEL A #6	SONORA (CANYON UPPER)	11.7	EL PASO NATURAL G
-ENERGY RESOURCES OIL & GAS CORP				RECEIVED:	11/17/82	JA: TX			
8309568	F-10-051792	4248330974		107-DP		BREWER #2	ALLISON PARKS S E (PU	925.0	MICHIGAN-WISCONSI
-ERWIN E GRIMES				RECEIVED:	11/17/82	JA: TX			
8309715	F-7C-059295	4239932500		102-4		PERRY BRAGG #2 (09703)	MARI-BILL (ELLENBURGE	20.0	VALERO TRANSMISSI
-EUROPEAN SOUTHWEST CO				RECEIVED:	11/17/82	JA: TX			
8309637	F-10-057305	4249300000		102-4		ROSE ULHIG GAS UNIT #1	CINDY ANN (AUSTIN CHA	0.0	VALERO TRANSMISSI
-EXXON CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309738	F-06-059441	4220330848		102-3	107-TF	CAROLYN W BELL GAS UNIT #1 #1	BLOCKER (COTTON VALLE	182.5	DELHI GAS PIPELIN
8309653	F-04-058177	4226130512		102-4		J O KENEDY JR "E" 33 (ID PENDING)	EL PAISTLE (H-45)	876.0	NATURAL GAS PIPEL
8309756	F-08-059478	4200332626		103		J S MEANS A/C 4 #331	MEANS SOUTH (WOLFCAMP	16.0	
8309753	F-04-059460	4226130737		103		K R SAN JOSE DE LA PARRA 42 101251	CALANDRIA (H-59)	650.0	ARMCO STEEL CORP
8309602	F-02-055508	4202531543		103		LAURA D THOMSON B 16 (PENDING)	BURKES RIDGE (VICKSBU	191.0	TRUNKLINE GAS CO
8309736	F-06-059437	4220330884		102-3	107-TF	MARY LOUISE WALDRON GAS UNIT #1 #1	BLOCKER (COTTON VALLE	440.0	DELHI GAS PIPELIN
8309577	F-08-053129	4200333066		103		MEANS/SAN ANDRES/UNIT #1384	MEANS	15.0	PHILLIPS PETROLEU
8309610	F-04-055765	4213132305		103		P E WHITE B-104 PENDING	LUNDELL (MIRANDO 1)	22.0	ARMCO STEEL CORP
8309693	F-8A-059129	4216532390		103		ROBERTSON CLEARFORK UNIT #3403	ROBERTSON N (CLEARFOR	15.9	PHILLIPS PETROLEU
8309678	F-04-058925	4226130687		103		SARITA FLD O & G UT 173 -ID PENDING	SARITA (3-C E)	26.0	NATURAL GAS PIPEL
8309675	F-04-058740	4204730871		103		SCOTT & HOPPER 35 (ID PENDING)	SCOTT & HOPPER (6850)	800.0	TENNESSEE GAS PIP
8309737	F-06-059439	4220330893		102-3	107-TF	VIOLA MIZELL GAS UNIT #1 #1	BLOCKER (COTTON VALLE	182.5	DELHI GAS PIPELIN
8309611	F-08-055862	4213533934		103		YARBROUGH & ALLEN #97	ARENOSO (STRAWN DETRI	8.0	EL PASO NATURAL G
-FIRST TEXAS CRUDE INC				RECEIVED:	11/17/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309663	F-7B-058562	4242933199		102-2		VAN CRUDGINGTON #4 RRC ID #18920	REID-MCLENNAN (MISS)	30.0	PETROLEUM CORP OF
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	11/17/82	JA: TX			
8309645	F-7C-057737	4243532740		103	107-TF	FLORENCE 26-#2	PHYLLIS SONORA	0.0	INTRATEX GAS CO
8309686	F-06-059039	4200131326		102-4		FLORIDA J W MILLS #1	PURT WEST (RODESSA 10	146.0	ESPERANZA PIPELIN
-FUNK EXPLORATION INC				RECEIVED:	11/17/82	JA: TX			
8309535	F-10-040671	4235700000		102-4	103	KERNS #1		0.0	TENNESSEE GAS PIP
-GAYLORD T HUGHEY SR OPERATING CO				RECEIVED:	11/17/82	JA: TX			
8309691	F-06-059097	4240100000		108		JOHN ORR GAS UNIT #1 RRC ID 16701	SHILOH (TRAVIS PEAK)	10.0	TEXAS UTILITIES F
-GEOSOUTHERN ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8309621	F-03-056938	4247730477		102-2	103	NANCY B #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	11/17/82	JA: TX			
8309606	F-03-055645	4204100000		102-2		G W LIGHTSEY #1	KURTEN (BUDA)	0.0	FERGUSON CROSSING
8309608	F-03-055678	4204100000		102-2		LAND EQUITIES #1	KURTEN (WOODBINE)	0.0	FERGUSON CROSSING
-GORDON T WEST JR & STAN RUGELEY				RECEIVED:	11/17/82	JA: TX			
8309667	F-7B-058636	4244732631		102-2	103	BROWN RANCH #2 (18279)	CONDRON (CONGL)	109.5	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309655	F-08-058324	4213501286		108		C A GOLDSMITH #917	LAWSON SAN ANDRES	2.6	PHILLIPS PETROLEU
8309773	F-08-059520	4247532672		103		HUTCHINGS STOCK ASSN #1086	WARD-ESTES NORTH	71.0	CABOT CORP
8309679	F-08-058940	4247532668		103		HUTCHINGS STOCK ASSN #1167	WARD-ESTES NORTH	194.0	CABOT CORP
8309774	F-08-059523	4247532669		103		HUTCHINGS STOCK ASSN #1171	WARD-ESTES NORTH	56.0	CABOT CORP
8309775	F-08-059524	4247532680		103		HUTCHINGS STOCK ASSN #1172	WARD-ESTES NORTH	2.0	CABOT CORP
8309806	F-08-059571	4210300642		108		J T MCELROY CONSOLIDATED WELL #B-36	MCELROY	8.0	PHILLIPS PETROLEU
8309802	F-08-059567	4210300616		108		J T MCELROY CONSOLIDATED WELL #B-7	J T MCELROY CONSOLIDA	13.0	PHILLIPS PETROLEU
8309805	F-08-059570	4210331339		108		J T MCELROY CONSOLIDATED WELL #B-87	MCELROY	39.0	PHILLIPS PETROLEU
8309810	F-08-059575	4246102526		108		J T MCELROY CONSOLIDATED WELL #C-17	MCELROY	12.0	PHILLIPS PETROLEU
8309812	F-08-059577	4246102527		108		J T MCELROY CONSOLIDATED WELL #C-26	MCELROY	11.0	PHILLIPS PETROLEU
8309818	F-08-059584	4246130186		108		J T MCELROY CONSOLIDATED WELL #C-47		7.0	PHILLIPS PETROLEU
8309809	F-08-059574	4246102520		108		J T MCELROY CONSOLIDATED WELL #C-5	MCELROY	9.7	PHILLIPS PETROLEU
8309730	F-08-059428	4210305945		108		J T MCELROY CONSOLIDATED WELL #161	MCELROY	4.0	PHILLIPS PETROLEU
8309734	F-08-059433	4210300682		108		J T MCELROY CONSOLIDATED WELL #164	MCELROY	18.0	PHILLIPS PETROLEU
8309814	F-08-059579	4246101051		108		J T MCELROY CONSOLIDATED WELL #189	MCELROY	24.0	PHILLIPS PETROLEU
8309735	F-08-059434	4210300652		108		J T MCELROY CONSOLIDATED WELL #20	MCELROY	21.0	PHILLIPS PETROLEU
8309804	F-08-059569	4210300588		108		J T MCELROY CONSOLIDATED WELL #219	MCELROY	50.0	PHILLIPS PETROLEU
8309732	F-08-059431	4210300603		108		J T MCELROY CONSOLIDATED WELL #254	MCELROY	23.0	PHILLIPS PETROLEU
8309720	F-08-059418	4210300660		108		J T MCELROY CONSOLIDATED WELL #28	MCELROY	1.0	PHILLIPS PETROLEU
8309725	F-08-059423	4210300661		108		J T MCELROY CONSOLIDATED WELL #29	MCELROY	12.0	PHILLIPS PETROLEU
8309803	F-08-059568	4210300570		108		J T MCELROY CONSOLIDATED WELL #458	MCELROY	2.0	PHILLIPS PETROLEU
8309800	F-08059565	4210300508		108		J T MCELROY CONSOLIDATED WELL #475	MCELROY	6.6	PHILLIPS PETROLEU
8309798	F-08-059563	4210300511		108		J T MCELROY CONSOLIDATED WELL #478	MCELROY	17.0	PHILLIPS PETROLEU
8309799	F-08-059564	4210300526		108		J T MCELROY CONSOLIDATED WELL #488	MCELROY	9.0	PHILLIPS PETROLEU
8309808	F-08-059573	4246100649		108		J T MCELROY CONSOLIDATED WELL #500	MCELROY	4.4	PHILLIPS PETROLEU
8309813	F-08-059578	4246100663		108		J T MCELROY CONSOLIDATED WELL #515	MCELROY	9.0	PHILLIPS PETROLEU
8309815	F-08-059580	4246100670		108		J T MCELROY CONSOLIDATED WELL #522	MCELROY	2.0	PHILLIPS PETROLEU
8309722	F-08-059420	4246130218		108		J T MCELROY CONSOLIDATED WELL #710	MCELROY	23.0	PHILLIPS PETROLEU
8309719	F-08-059417	4210300461		108		J T MCELROY CONSOLIDATED WELL #75	MCELROY	6.0	PHILLIPS PETROLEU
8309723	F-08-059421	4210300462		108		J T MCELROY CONSOLIDATED WELL #77	MCELROY	5.0	PHILLIPS PETROLEU
8309724	F-08-059422	4246130433		108		J T MCELROY CONSOLIDATED WELL #821	MCELROY	28.0	PHILLIPS PETROLEU
8309797	F-08-059559	4210331199		108		J T MCELROY CONSOLIDATED WELL #857	MCELROY	12.0	PHILLIPS PETROLEU
8309733	F-08-059432	4210331341		108		J T MCELROY CONSOLIDATED WELL #878	MCELROY	6.0	PHILLIPS PETROLEU
8309811	F-08-059576	4246130576		108		J T MCELROY CONSOLIDATED WELL #894	MCELROY	38.0	PHILLIPS PETROLEU
8309801	F-08-059566	4210331381		108		J T MCELROY CONSOLIDATED WELL #906	MCELROY	0.0	PHILLIPS PETROLEU
8309807	F-08-059572	4246130631		108		J T MCELROY CONSOLIDATED WELL #935	MCELROY	5.0	PHILLIPS PETROLEU
8309726	F-08-059424	4246101121		108		MCELROY CONSOLIDATED #1 #M-266	MCELROY	24.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309759	F-08-059482	4246100563		108		MCELROY CONSOLIDATED #1 WELL #M-311	MCELROY	0.0	PHILLIPS PETROLEU
8309721	F-08-059419	4246103816		108		MCELROY CONSOLIDATED #1 WELL #M-566	MCELROY	33.0	PHILLIPS PETROLEU
8309758	F-08-059481	4246130474		108		MCELROY CONSOLIDATED #1 WELL #M-841	MCELROY	10.0	PHILLIPS PETROLEU
8309757	F-08-059480	4246130487		108		MCELROY CONSOLIDATED #1 WELL #M-844	MCELROY	10.0	PHILLIPS PETROLEU
8309729	F-08-059427	4246100742		108		MCELROY CONSOLIDATED #1 WELL #36	MCELROY	5.0	PHILLIPS PETROLEU
8309728	F-08-059426	4246130213		108		MCELROY CONSOLIDATED #1 WELL #44	MCELROY	2.0	PHILLIPS PETROLEU
8309727	F-08-059425	4246130254		108		MCELROY CONSOLIDATED #1 WELL #48	MCELROY	10.0	PHILLIPS PETROLEU
8309731	F-08-059430	4246130314		108		MCELROY CONSOLIDATED #1 WELL #55	MCELROY	8.0	PHILLIPS PETROLEU
8309772	F-08-059519	4246130371		108		MCELROY CONSOLIDATED #1 WELL #58	MCELROY	3.0	PHILLIPS PETROLEU
8309771	F-08-059518	4246130441		108		MCELROY CONSOLIDATED #1 WELL #60	MCELROY	20.0	PHILLIPS PETROLEU
-H L HUFFMAN LTD				RECEIVED:	11/17/82	JA: TX			
8309672	F-7C-058696	4241331146		107-TF		R L HENDERSON "B" NO 4-X WELL	VELREX (CANYON SAND)	365.0	CRA INC
-H-M OIL CO				RECEIVED:	11/17/82	JA: TX			
8309615	F-04-056384	4213100000		102-4	103	HERMINIA G ROGERS #2	THOMAS LOCKHART (PETT	0.0	VALERO TRANSMISSI
-HENDERSON CLAY PRODUCTS INC				RECEIVED:	11/17/82	JA: TX			
8309639	F-06-057342	4240131403		102-2	107-TF	ALFORD -B- GAS UNIT WELL #1	CYRIL (COTTON VALLEY)	704.0	B & A PIPELINE
8309603	F-06-055509	4240131423		102-2	107-TF	BUSBY ESTATE GAS UNIT WELL #1	HENDERSON N (COTTON V	730.0	B & A PIPE LINE C
8309650	F-06-057921	4240131493		102-2	107-TF	WILLIE THOMPSON GAS UNIT	HENDERSON N (COTTON V	730.0	B & A PIPE LINE C
-HNG OIL COMPANY				RECEIVED:	11/17/82	JA: TX			
8309711	F-7C-059268	4243532751		103	107-TF	REED "116" #5	SAWYER (CANYON)	405.6	INTRATEX GAS CO
8309703	F-7C-059178	4243532738		103	107-TF	SHURLEY "166" #4	SAWYER (CANYON)	427.0	INTRATEX GAS CO
-HUDSON PETROLEUM INC				RECEIVED:	11/17/82	JA: TX			
8309714	F-7C-059280	4208100000		102-4		SMITH A #1	BUFFALO CREEK (CADDO	237.0	
8309713	F-7C-059279	4208100000		102-4		WILLCOCKSON B #1	BUFFALO CREEK (CADDO	5.5	
-HUFO PRODUCTION CORP				RECEIVED:	11/17/82	JA: TX			
8309614	F-10-056383	4234100000		103		BRENT 61-6	BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
-HUGHES & HUGHES				RECEIVED:	11/17/82	JA: TX			
8309624	F-04-057028	4247933271		102-4		G F VELA CUELLAR #1	STAGGS (700) FIELD	37.0	VALERO TRANSMISSI
8309625	F-04-057029	4247933366		102-4		G F VELA CUELLAR #1	STAGGS (823) (PROPOSE	27.0	VALERO TRANSMISSI
-IKE LOVELADY INC				RECEIVED:	11/17/82	JA: TX			
8309578	F-7C-053225	4243532664		102-4		WEST #7-L	INTERSTATE (ELLENBERG	109.5	ADOBE GAS CO
-INDIAN WELLS OIL CO				RECEIVED:	11/17/82	JA: TX			
8309620	F-7C-056906	4223531943		102-2		PROBANDT 70-5	PROBANDT (CANYON)	0.0	CRA INC
-INVESTEK INC				RECEIVED:	11/17/82	JA: TX			
8309684	F-09-059009	4223700000		103		J E HENDERSON B #1	JACK COUNTY REGULAR	160.0	SOUTHWESTERN GAS
-JAMES K ANDERSON INC				RECEIVED:	11/17/82	JA: TX			
8309689	F-7C-059078	4239932396		102-4		STRAKE MICHAELIS #2	FRITZESS (GARDNER SAN	15.0	UNION TEXAS PETRO
-JOHN L COX				RECEIVED:	11/17/82	JA: TX			
8309565	F-7C-050989	4238300000		103		ROCKER B "E" #1-4 RRC #04544	SPRABERRY (TREND AREA	5.0	EL PASO NATURAL G
8309543	F-7C-046147	4238332121		103		ROCKER B "E" #5-X RRC# 04544	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8309544	F-7C-046149	4238300000		103		ROCKER B "O" #3-X RRC# 05289	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
-KENNEDY & MITCHELL INC				RECEIVED:	11/17/82	JA: TX			
8309550	F-10-047872	4229530695		102-4		JONES #25-406	COBURN MORROW UPPER	500.0	INTER NORTH INC
-L M YOUNG				RECEIVED:	11/17/82	JA: TX			
8309692	F-7B-059109	4204932861		102-4		R J GOODALL "L"	DALE (MARBLE FALLS)	15.0	ODESSA NATURAL CO
-LAEL ENERGY				RECEIVED:	11/17/82	JA: TX			
8309660	F-10-058457	4217900000		103		AXELROD #2-1	PANHANDLE	62.6	CITIES SERVICE CO
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	11/17/82	JA: TX			
8309687	F-03-059040	4205132306		103		PARTHUM UNIT #1	WILLARD	0.3	
-LANDRUM OPERATING CO INC				RECEIVED:	11/17/82	JA: TX			
8309590	F-09-053881	4233731855		103		DOBBS #1L	SMYRNA (ATOKA)	0.0	LONE STAR GAS CO
-LEWIS B BURLESON				RECEIVED:	11/17/82	JA: TX			
8309571	F-08-052215	4237133761		102-4		KAY #2		0.0	APACHE GAS CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	11/17/82	JA: TX
8309593	F-03-054697	4207131186		102-4		STATE TRACT 79213 #1
-MARSHALL EXPLORATION INC				RECEIVED:	11/17/82	JA: TX
8309569	F-06-052082	4236530842		103		J A HARRISON #1
-MAY PETROLEUM INC				RECEIVED:	11/17/82	JA: TX
8309640	F-7C-057397	4238332222		103		ROCKER "B" 32 #2
8309642	F-7C-057477	4238332230		103		ROCKER "B" 32 #3
-MCCORD EXPLORATION				RECEIVED:	11/17/82	JA: TX
8309595	F-04-054849	4235500000		102-4		LONDON #2 T
8309596	F-04-054850	4235500000		102-4		MCCORD - LONDON #2 C
-MCZ INC				RECEIVED:	11/17/82	JA: TX
8309817	F-03-059582	4204130782		102-2		ERCANBRACK-RAMBO UNIT #1-U
8309754	F-03-059471	4204130768		102-2		SIEGERT UNIT #1-U
-MEWBOURNE OIL COMPANY				RECEIVED:	11/17/82	JA: TX
8309607	F-10-055655	4235731269		102-4	103	C H WILLIAMS #1 RRC # N/A
-MITCHELL ENERGY CORPORATION				RECEIVED:	11/17/82	JA: TX
8309570	F-09-052197	4249700000		108		C H GROLLMAN #1 #40144
8309589	F-03-053780	4237300000		108		C L BRENT #1 #77325
8309635	F-7C-057272	4245131004		102-4	103	FREYSCHLAG 219 A #2
8309538	F-03-043931	4216730804		103		GALVESTON TOWNSITE UNIT 3 #2
8309546	F-09-046447	4249700000		108-ER		J V HAMPTON #1 28667
8309547	F-09-046451	4249700000		108-PB		LAWRENCE TAYLOR #1 51127
8309690	F-09-059093	4223734428		103		M D HUTTON #1
8309707	F-09-059254	4249732524		103		MOLLIE REDDELL #2
8309588	F-03-053779	4237300000		108		S PARRISH #1 #72459
8309537	F-09-042230	4249700000		108-ER		W M SIMPSON #1
8309539	F-09-044862	4249700000		108-ER		WARREN DONALDSON #2 28632
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	11/17/82	JA: TX
8309661	F-10-058512	4221135086		108		BERT F MCCLURE #1 #2
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED:	11/17/82	JA: TX
8309579	F-06-053316	4200131303		102-4		ROYAL NATIONAL BANK #2
-MORAN EXPLORATION INC				RECEIVED:	11/17/82	JA: TX
8309781	F-7C-059532	4223531411		102-2		A A SUGG "12" #1
8309780	F-7C-059531	4223531733		102-2		A A SUGG "12" #2
8309778	F-7C-059529	4223531523		102-2		A A SUGG "13" #1
8309792	F-7C-059544	4223531781		102-2		A A SUGG "15" #1
8309791	F-7C-059543	4223531864		102-2		A A SUGG "15" #2
8309785	F-7C-059536	4223531607		102-2		A A SUGG "2" #1
8309779	F-7C-059530	4223531838		102-2		A A SUGG "2" #2
8309790	F-7C-059542	4223531620		102-2		A A SUGG "20" #1
8309789	F-7C-059541	4223531740		102-2		A A SUGG "20" #2
8309788	F-7C-059540	4223531516		102-2		A A SUGG "21" #1
8309787	F-7C-059539	4223531742		102-2		A A SUGG "21" #2
8309786	F-7C-059538	4223531467		102-2		A A SUGG "22" #1
8309777	F-7C-059526	4223531637		102-2		A A SUGG "3057" #1
8309794	F-7C-059547	4223531824		102-2		A A SUGG "3057" #2
8309793	F-7C-059545	4223531823		102-2		A A SUGG "3058" #2
8309784	F-7C-059535	4223531515		102-2		A A SUGG "5" #1
8309783	F-7C-059534	4223531738		102-2		A A SUGG "5" #2
8309782	F-7C-059533	4223531591		102-2		A A SUGG "6" #1
-MORMAC ENERGY CORP				RECEIVED:	11/17/82	JA: TX
8309706	F-02-059230	4229733197		102-4		L A REAGAN #2
-MORROW RESOURCES INC				RECEIVED:	11/17/82	JA: TX

FIELD NAME	PROD	PURCHASER
SEABROOK "TEX 2" (PRO	81.0	UNITED TEXAS TRAN
BELLE BOWER (PETTIT)	120.0	TENNESSEE GAS PIP
SPRABERRY (TREND AREA	36.5	INTER NORTH INC
SPRABERRY (TREND AREA	36.5	INTER NORTH INC
DOUGHTY	400.0	HOUSTON PIPELINE
DOUGHTY FIELD	1000.0	HOUSTON PIPELINE
KURTEN (WOODBINE)	96.0	FERGUSON CROSSING
KURTEN (WOODBINE)	77.0	FERGUSON CROSSING
HARDY (MORROW UPPER)	55.0	TRANSWESTERN PIPE
BOONSVILLE (BEND CONG	13.1	NATURAL GAS PIPEL
HORTENSE (WOODBINE)	4.1	HOUSTON PIPELINE
K W B (STRAWN)	375.0	ESPERANZA PIPELIN
LAFITTES GOLD	135.0	HOUSTON PIPELINE
BOONSVILLE (BEND CONG	10.9	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	11.9	NATURAL GAS PIPEL
WOODKIRK (STRAWN)	43.0	
BOONSVILLE (BEND CONG	1897.0	NATURAL GAS PIPEL
HORTENSE (WOODBINE)	9.1	HOUSTON PIPELINE
BOONESVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	10.6	NATURAL GAS PIPEL
FELDMAN (TONKAWA)	16.3	TRANSWESTERN PIPE
TENNESSEE COLONY (SW)	146.0	MOORE MCCORMACK G
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
OAKVILLE (WILCOX 9700	1001.0	TRANSCONTINENTAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8309705	F-7C-059216	4245131030		102-4	103	BROWN #4
				RECEIVED:	11/17/82	JA: TX
-MUSTANG EXPLORATION CO INC						
8309676	F-03-058887	4214931327		102-2		GRAHAM #3
				RECEIVED:	11/17/82	JA: TX
-N T E OF NORMAN OKLAHOMA INC						
8309654	F-09-058284	4218130843		102-4	103	EDWIN KIDD #1
				RECEIVED:	11/17/82	JA: TX
-NEUMIN PRODUCTION CO						
8309580	F-04-053395	4200700000		107-PE		STATE TRACT 59 WELL #1
				RECEIVED:	11/17/82	JA: TX
-NORTH STAR PETROLEUM CORPORATION						
8309644	F-10-057655	4223300000		103		TARVER YAKE #3 (05028)
				RECEIVED:	11/17/82	JA: TX
-OWL PETROLEUM CO						
8309561	F-03-049503	4208930918		102-4		R TAYLOR #1-T
				RECEIVED:	11/17/82	JA: TX
-P C BURNS						
8309704	F-09-059215	4207732696		103		BARRINGTON #1 22508
				RECEIVED:	11/17/82	JA: TX
-PALO PETROLEUM INC						
8309592	F-08-054028	4217331250		103		EDITH BOOKS "17" #1
				RECEIVED:	11/17/82	JA: TX
-PAN PETROLEUM						
8309553	F-7B-048278	4209330929		102-4		J W KOONCE #4
				RECEIVED:	11/17/82	JA: TX
-PANHANDLE ENERGY CORP						
8309740	F-10-059443	4217900000		103		MICHAEL #2 (ID# 05172)
8309739	F-10-059442	4217900000		103		MICHAEL #4 (ID #05172)
				RECEIVED:	11/17/82	JA: TX
-PAR PRODUCING CO						
8309819	F-03-059585	4214931373		102-2		KUBENA
8309820	F-03-059587	4228731276		102-2		MERSIOVSKY
				RECEIVED:	11/17/82	JA: TX
-PARKER OPERATING CO INC						
8309652	F-09-058128	4250300000		103		HALL-PARKS "B" #6
				RECEIVED:	11/17/82	JA: TX
-PHILLIPS PETROLEUM COMPANY						
8309556	F-10-049036	4235700000		103		BENNETT B #2
8309761	F-6F-059493	4240100000		108		FREDERICK A & B #2
				RECEIVED:	11/17/82	JA: TX
-PLACER ENERGY CORP						
8309630	F-8A-057096	4207931485		103		FROST #1
8309631	F-8A-057098	4207931486		103		FROST #2
8309629	F-7C-057095	4238332137		103		ONA WELLS #1
8309633	F-7C-057182	4238332139		103		ONA WELLS "A" #1
8309634	F-7C-057183	4238332256		103		R W HALFMAN #1
-PLATEAU EXPLORATION & DEVELOPMENT			I	RECEIVED:	11/17/82	JA: TX
8309638	F-10-057340	4235731235		103		ROGERS #1-408
				RECEIVED:	11/17/82	JA: TX
-R A W ENERGY CORP						
8309572	F-7B-052235	4236300000		103		DOW #1
8309632	F-7B-057171	4236731146		102-4		JOHN FLORENCE #1
				RECEIVED:	11/17/82	JA: TX
-R H ENGELKE						
8309548	F-03-046525	4248132169		103		HLAVINKA WILLIAM J #1
				RECEIVED:	11/17/82	JA: TX
-REALITOS ENERGY CORP						
8309573	F-02-052517	4223931761		103		MAURITZ ESTATE #2-C
				RECEIVED:	11/17/82	JA: TX
-REYNOLDS DRLG CO & ENI EXPL CO				103	107-TF	RUST ESTATE #2
8309669	F-06-058652	4240131344		RECEIVED:	11/17/82	JA: TX
-ROCKWOOD RESOURCES INC						
8309583	F-03-053401	4248132092		102-4		APPLING #1
8309581	F-02-053398	4223931758		102-4		CANERDAY #1
8309584	F-02-053402	4223931583		103		HULTQUIST #1
8309582	F-02-053399	4223931746		102-4		MATCEK #2
				RECEIVED:	11/17/82	JA: TX
-ROY FARRELL JR						
8309701	F-10-059167	4206531002		108		CHARLES BOWERS #1 ID #100593
				RECEIVED:	11/17/82	JA: TX
-ROY R GARDNER						

FIELD NAME	PROD	PURCHASER
K W B (STRAWN)	0.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	50.0	PHILLIPS PETROLEU
SHERMAN (10700)	360.0	LONE STAR GAS CO
COPANO BAY S (FB-B N-	146.0	HOUSTON PIPE LINE
PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
LYDIA (3700)	35.0	LONE STAR GAS CO
TALLY (STRAWN)	6.0	PAGADAU ENERGY CO
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
DELEON N (STRAWN)	184.0	SOUTHWESTERN GAS
PANHANDLE GRAY	40.0	GETTY OIL CO
PANHANDLE GRAY	100.0	GETTY OIL CO
GIDDINGS (AUSTIN CHAL	200.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	200.0	PHILLIPS PETROLEU
YOUNG COUNTY REGULAR	0.0	NATURAL GAS PIPEL
FARNSWORTH-CONNER (DE	0.0	PANHANDLE EASTERN
EAST TEXAS (WOODBINE)	1.6	PARADE CO
BUCKSHOT (4950 SD)	5.5	WARREN PETROLEUM
BUCKSHOT (4950 SD)	5.5	WARREN PETROLEUM
SPRABERRY (TREND AREA	0.7	UNION TEXAS PETRO
SPRABERRY (TREND AREA	0.7	UNION TEXAS PETRO
SPRABERRY (TREND AREA	0.7	UNION TEXAS PETRO
DUTCHER-CLEVELAND	182.0	DIAMOND SHAMROCK
PALO PINTO CO REGULAR	0.0	SOUTHWESTERN GAS
CABBAGE PATCH (ATOKA)	200.0	EMPIRE PIPELINE C
HUNGERFORD NORTH (350	0.0	
MAURITZ (6245)	50.0	DELHI GAS PIPELIN
NORTH TATUM (COTTON V	0.0	UNITED GAS PIPE L
HILLJE (FRIO 6750)	0.0	LONE STAR GAS COM
EL TORO (6300)	0.0	LONE STAR GAS CO
GANADO DEEP (HULTQUIS	0.0	LONE STAR GAS CO
MAYO (6540)	0.0	TEXAS EASTERN TRA
WEST PANHANDLE FIELD	15.0	NATURAL GAS PIPEL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309599	F-03-055206	4208900000		102-4		BUESCHER UNIT #1	FRANK (WILCOX O) (PRO	0.0	TEXAS EASTERN TRA
-SAGE ENERGY CO				RECEIVED:	11/17/82	JA: TX			
8309563	F-03-050702	4205132187		102-2		HARRIS #1 RRC ID #101648	GIDDINGS (AUSTIN CHAL	361.8	PHILLIPS PETROLEU
8309574	F-03-052714	4205132233		102-2		MASON #N-1 RRC ID #101596	BIG "A" TAYLOR	246.2	PHILLIPS PETROLEU
-SANDEFER PETROLEUM CO				RECEIVED:	11/17/82	JA: TX			
8309626	F-02-057036	4229733175		102-4		K W SCHREINER #1	TOM LYNE N (WILCOX 10	1.8	HOUSTON PIPE LINE
-SEEK RESOURCES LTD				RECEIVED:	11/17/82	JA: TX			
8309560	F-8A-049480	4213509671		102-2	103	SEEK #1 RATLIFF 94627	PRUDENCE (ATOKA)	74.4	PALO DURO PIPELIN
-SHA-JAM CORP				RECEIVED:	11/17/82	JA: TX			
8309670	F-03-058662	4214931337		103		MELBA JUNE #1	GIDDINGS (AUSTIN CHAL	91.2	SOUTH CEN-TEX GAS
-SKLAR & PHILLIPS OIL CO				RECEIVED:	11/17/82	JA: TX			
8309555	F-06-048976	4242330511		103	107-TF	LAKE RONEL #1	CHAPEL HILL (COTTON V	400.0	UNITED GAS PIPE L
-SO-TEX PETROLEUM, INC.				RECEIVED:	11/17/82	JA: TX			
8309770	F-7B-059517	4244132236		103		SOUTH CORNETT #2	JOCELYN-VARN (FRY)	87.0	UNION TEXAS PETRO
-SOHIO PETROLEUM CO				RECEIVED:	11/17/82	JA: TX			
8309816	F-7C-059581	4217331323		103		M V BRYANS "B" #5	CALVIN (DEAN)	18.0	EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/17/82	JA: TX			
8309597	F-04-054913	4227331656		103		E G CANALES #24	TIJERINA-CANALES-BLUC	38.0	
8309636	F-7B-057291	4243360399		103		EAST FRANKIRK (CANYON SAND) UT #23	FRANKIRK EAST	2.0	CITIES SERVICE CO
8309768	F-09-059514	4227531195		102-4		FANT EST "2" #1	FANT	8.0	SUN GAS TRANSMISS
8309767	F-09-059513	4227530824		102-4		FANT EST "56" #1	FANT	33.0	SUN GAS TRANSMISS
8309766	F-09-059512	4227530871		102-4		FANT EST "56" #2	FANT	40.0	SUN GAS TRANSMISS
8309765	F-09-059511	4227530904		102-4		FANT EST "56" #3	FANT	5.0	SUN GAS TRANSMISS
8309752	F-09-059458	4227530903		102-4		FANT EST "56" #4	FANT	27.0	SUN GAS TRANSMISS
8309764	F-09-059510	4227530963		102-4		FANT EST "56" #5	FANT	7.0	SUN GAS TRANSMISS
8309763	F-09-059509	4227530964		102-4		FANT EST "56" #6	FANT	19.0	SUN GAS TRANSMISS
8309762	F-09-059508	4227531149		102-4		FANT EST "56" #7	FANT	5.0	SUN GAS TRANSMISS
8309760	F-09-059483	4227531204		102-4		FANT EST "56" #8	FANT	8.0	SUN GAS TRANSMISS
8309751	F-09-059457	4227531172		102-4		FANT EST "56A" #3	FANT	0.9	SUN GAS TRANSMISS
8309750	F-09-059456	4227581216		102-4		FANT EST "57" #6	FANT	10.0	SUN GAS TRANSMISS
8309749	F-09-059455	4227531226		102-4		FANT EST "57" #7	FANT	5.0	SUN GAS TRANSMISS
8309748	F-09-059454	4227530946		102-4		FANT EST "57A" #1	FANT	21.0	SUN GAS TRANSMISS
8309747	F-09-059453	4227531012		102-4		FANT EST "57A" #2	FANT	32.6	SUN GAS TRANSMISS
8309746	F-09-059452	4227531013		102-4		FANT EST "57A" #3	FANT	9.0	SUN GAS TRANSMISS
8309745	F-09-059451	4227531014		102-4		FANT EST "57A" #4	FANT	4.0	SUN GAS TRANSMISS
8309744	F-09-059450	4227531152		102-4		FANT EST "57A" #5	FANT	22.0	SUN GAS TRANSMISS
8309743	F-09-059449	4227531171		102-4		FANT EST "57A" #6	FANT	21.0	SUN GAS TRANSMISS
8309769	F-09-059516	4227531174		102-4		FANT EST "57A" #7	FANT	17.0	SUN GAS TRANSMISS
8309742	F-09-059448	4227531222		102-4		FANT EST "58A" #1	FANT	5.0	SUN GAS TRANSMISS
8309673	F-09-058728	4227531196		102-4	103	FANT ESTATE "2A" #1	FANT (CONGL LO)	15.0	SUN GAS TRANSMISS
8309717	F-8A-059395	4221933384		103		MALLET LAND & CATTLE CO A/C-1 #10	SLAUGHTER	6.0	AMOCO PRODUCTION
8309700	F-04-059164	4242731449		103		MARRS MCLEAN #24	LOCKHART (COCKFIELD #	5.0	TENNESSEE GAS PIP
8309604	F-08-055590	4213533853		103		PAUL MOSS #194	COWDEN SOUTH	4.0	ODESSA NATURAL GA
8309651	F-10-058079	4235700000		108		R C ELLIOTT-A #2	FARNSWORTH-CONNER	7.5	PHILLIPS PETROLEU
8309718	F-08-059396	4233500000		108		TUBB OMEGA #2	JAMESON NORTH STRAWN	10.0	LONE STAR GAS CO
-SUPERIOR OIL CO				RECEIVED:	11/17/82	JA: TX			
8309594	F-03-054734	4205132231		102-2	103	L I PAVLAS #1	GIDDINGS (AUSTIN CHAL	0.0	
-SUPERIOR WELL SERVICING CO				RECEIVED:	11/17/82	JA: TX			
8309540	F-10-045284	4223300000		108		JOHNSON #1	PANHANDLE HUTCHINSON	2.0	
-TASCOCITA ENERGY CO				RECEIVED:	11/17/82	JA: TX			
8309552	F-03-048160	4215731240		102-4	103	SIMMONS #1	WILDCAT	500.0	DOW CHEMICAL CO
-TAUBERT & STEED				RECEIVED:	11/17/82	JA: TX			
8309619	F-06-056862	4249900000		102-4		J J PUCKETT HEIRS #3	NEUHOFF (CLARKSVILLE)	693.5	UNITED GAS PIPELI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TAYLOR OPERATING COMPANY				RECEIVED:	11/17/82	JA: TX			
8309795	F-09-059552	4249700000		103		SIMONS #1 (100708)	BOONSVILLE (BEND CONG	456.3	NATURAL GAS PIPEL
-TED MCCANN & ASSOCIATES INC				RECEIVED:	11/17/82	JA: TX			
8309659	F-7C-058448	4243532760		103	107-TF	FIELDS #1-25	SAWYER (CANYON)	100.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	11/17/82	JA: TX			
8309674	F-10-058733	4221131447		103		TESSON 1-12		125.0	
-TEXACO INC				RECEIVED:	11/17/82	JA: TX			
8309566	F-08-051703	4210931552		102-4		CULBERSON "AB" FEE #1	UNASSIGNED	0.0	
8309683	F-8A-058995	4250132058		103		ROBERTS UNIT #1736	WASSON	0.0	SHELL OIL CO
8309649	F-8A-057814	4250132076		103		ROBERTS UNIT #3627	WASSON	0.0	SHELL OIL CO
8309613	F-8A-056322	4250132057		103		ROBERTS UNIT NO 1735	WASSON	17.1	SHELL OIL CO
8309622	F-8A-056957	4216532382		103		ROBERTSON UNIT #51	ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
8309641	F-8A-057468	4216532380		103		ROBERTSON UNIT #53	ROBERTSON N (CLEARFOR	31.3	PHILLIPS PETROLEU
8309648	F-08-057792	4243131169		103		STERLING "E" FEE #13	CONGER (PENN)	0.0	VALERO TRANSMISSI
8309671	F-10-058687	4206500000		108		T J BONEY NCT-3 #10	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
-TEXAS UNITED GEOPRODUCTION				RECEIVED:	11/17/82	JA: TX			
8309709	F-7B-059266	4225331378		102-4		AMY SEARS #1 16069	ACME (STRAWN MIDDLE)	1.0	PALO DURO PIPELIN
8309708	F-7B-059265	4225331254		103		JOE JACKSON #1 15247	AMY SEARS (W CANYON S	4.0	PALO DURO PIPELIN
8309710	F-7B-059267	4225331254		103		JOE JACKSON #2-15247	AMY SEARS (W CANYON S	1.0	PALO DURO PIPELIN
-THE DOW CHEMICAL COMPANY				RECEIVED:	11/17/82	JA: TX			
8309617	F-03-056402	4224531296		102-4		HEBERT-BROUSSARD #8	GUM ISLAND N (7800')	365.0	
-TOM F MARSH INC				RECEIVED:	11/17/82	JA: TX			
8309559	F-10-049362	4248331002		102-4		MAY #1-85	CANDICE (MORROW)	183.0	
8309551	F-10-047933	4248330972		102-4		SHELTON #1-97	CANDICE (MORROW)	183.0	
-TOMMY STAPLES OIL CO				RECEIVED:	11/17/82	JA: TX			
8309554	F-02-048851	4202531408		102-4		HARRIS #4	DIRKS (1850)	50.0	TEXAS EASTERN GAS
-TRIPLE J INVESTMENTS INC				RECEIVED:	11/17/82	JA: TX			
8309668	F-06-058646	4240100000		103		R W FAIR #1	TALIAFERRO	48.0	ARCO OIL & GAS CO
-TXO PRODUCTION CORP				RECEIVED:	11/17/82	JA: TX			
8309586	F-02-053751	4246931741		102-4		ADCOCK #2	RICHARD ADCOCK (3360'	0.0	UNITED GAS PIPELI
8309587	F-02-053753	4223931334		102-4		SCHAEFER B-1	MCDANIEL (3650')	0.0	TEXAS EASTERN TRA
8309627	F-7B-057086	4241734653		103		WALKER-BUCKLER 72-1	ROCKWELL (CONGL)	30.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:	11/17/82	JA: TX			
8309680	F-03-058952	4228700000		102-2		BRENDA #2 RRC ID #12970	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
8309664	F-03-058617	4228731246		102-2		KIMBERLY #1 RRC ID # N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNION EXPLORATION				RECEIVED:	11/17/82	JA: TX			
8309677	F-7B-058896	4243331412		103		DRUESEDOW "B" #3 (18303)	CORSICA (BEND CONGLOM	35.0	CITIES SERVICE CO
-VENQUEST RESOURCES INC				RECEIVED:	11/17/82	JA: TX			
8309616	F-03-056388	4247700000		102-2		NIXON UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-VENUS OIL COMPANY				RECEIVED:	11/17/82	JA: TX			
8309699	F-02-059151	4223900000		102-4		OTTO WELL #1	BENNVIEW	0.0	DELHI GAS PIPELIN
-W M NULL				RECEIVED:	11/17/82	JA: TX			
8309643	F-01-057581	4212700000		102-4	103	KING N C #2	STUMBERG (OLMOS 4150)	0.0	VALERO TRANSMISSI
8309656	F-01-058382	4212700000		102-4	103	STUMBERG RANCH #4 07714	STUMBERG (OLMOS N-2)	0.0	VALERO TRANSMISSI
-WAINOCO OIL & GAS CO				RECEIVED:	11/17/82	JA: TX			
8309575	F-05-052719	4216130794		102-4	107-TF	COCHRUM #1	FREESTONE W (BOSSIER)	110.0	DELHI GAS PIPELIN
8309623	F-03-057017	4208931299		102-4	103	J R THOMAS #2	WYLIE FIELD	100.0	SEAGULL PIPELINE
-WINN EXPLORATION/DULCE CO				RECEIVED:	11/17/82	JA: TX			
8309601	F-01-055384	4250731185		102-4		PRYOR RANCH 4-T	WINN-DULCE	0.0	INTER NORTH INC
8309612	F-01-056018	4250731676		102-4		PRYOR RANCH 64	WINN-DULCE	0.0	VALERO TRANSMISSI
-3 W OIL INC				RECEIVED:	11/17/82	JA: TX			
8309755	F-10-059472	4206531136		103		WEBSTER (05135) #2	PANHANDLE CARSON COUN	9.0	GETTY OIL CO

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The application for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission 's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34519 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADOBE OIL & GAS CORPORATION			RECEIVED:	11/17/82	JA: TX				
8310075	F-7B-059936	4213334235		102-4		SNEED "C" #2	MANGUM NORTH (3200)	40.0	EL PASO HYDROCARB
-ARGONAUT ENERGY CORPORATION			RECEIVED:	11/17/82	JA: TX				
8310079	F-10-059958	4219530823		103		PHELPS #3 (03930)	HANSFORD (MORROW UPPE	39.0	PHILLIPS PETROLEU
-CAL-T OIL CO			RECEIVED:	11/17/82	JA: TX				
8310091	F-10-060019	4223331417		103		CARVER AREA WATERFLOOD 1 02712 #43	PANHANDLE - HUTCHINSO	88.0	DIAMOND SHAMROCK
-CALIX CORP			RECEIVED:	11/17/82	JA: TX				
8309923	F-01-59735	4217731322		102-4		INDUSTRIAL PARK UNIT #1 ID #08343	PEACH CREEK (BUDA)	6.0	VALERO TRANSMISSI
-CITIES SERVICE COMPANY			RECEIVED:	11/17/82	JA: TX				
8309852	F-08-59653	4213533942		103		WEST GOLDSMITH UNIT #4005	GOLDSMITH W (CLEARFOR	18.0	SHELL OIL CO
-CONOCO INC			RECEIVED:	11/17/82	JA: TX				
8310068	F-10-059902	4206500000		108		BURNETT 72A	WEST PANHANDLE	16.0	CITIES SERVICE GA
8310067	F-10-059901	4206500000		108		BURNETT 94A	WEST PANHANDLE	15.0	CITIES SERVICE GA
8310084	F-8A-059979	4207931522		103		CONOCO DEAN UNIT #134 ID #60106	SLAUGHTER	4.0	AMOCO PRODUCTION
8310066	F-10-059900	4206500000		108		FUQUA 6	WEST PANHANDLE	22.0	CITIES SERVICE GA
8310065	F-10-059899	4217900000		108		HEXTER AH 1	WEST PANHANDLE	18.0	CITIES SERVICE GA
8310064	F-10-059898	4217900000		108		HEXTER AH 2	WEST PANHANDLE	21.0	CITIES SERVICE GA
8310063	F-10-059897	4206500000		108		MOORE JULIA 1	WEST PANHANDLE	11.0	CITIES SERVICE GA
8310062	F-10-059896	4206500000		108		POPE MARY 1	WEST PANHANDLE	17.0	CITIES SERVICE GA
8310061	F-10-059895	4206500000		108		SIMMS MINOR 1B	WEST PANHANDLE	12.0	CITIES SERVICE GA
8310059	F-10-059894	4217900000		108		TEXAS-G COFFEE 1A	WEST PANHANDLE	15.0	CITIES SERVICE GA
-D L BISHOP			RECEIVED:	11/17/82	JA: TX				
8310077	F-7C-059956	4210533067		103		UNIVERSITY "25-A" #6 (RRC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
8310078	F-7C-059957	4210533066		103		UNIVERSITY "25-A" #7 (RRC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
-DAMSON OIL CORPORATION			RECEIVED:	11/17/82	JA: TX				
8310087	F-06-060003	4240130813		103		DANIEL MENEFEE GAS UNIT #2	OAK HILL (COTTON VALL	350.0	DELHI GAS PIPELIN
-DESANA CORP			RECEIVED:	11/17/82	JA: TX				
8310019	F-7C-05984	4239932243		103		BAKER #3	WINTERS	37.0	LONE STAR GAS CO
8310021	F-7B-059844	4243331120		102-4		FLAT TOP (133) #1-133	FLAT TOP (133)	1.0	TUFCO
8310020	F-7B-059843	4220731218		102-4		FLAT TOP (24) #3-24	P O C	1.0	TUFCO
8310018	F-7B-059841	4220731220		102-4		FLAT TOP (24) #424	P O C	1.0	TUFCO
-DIAMOND SHAMROCK CORPORATION			RECEIVED:	11/17/82	JA: TX				
8310086	F-10-05998	4229531073		103		CROSSLEY ESTATE #2	LIPSCOMB	50.0	
8310085	F-10-059995	4229531139		103		KATIE SELL #3	LIPSCOMB SW	53.0	
-FAGADAU ENERGY CORP			RECEIVED:	11/17/82	JA: TX				
8310074	F-09-059930	4223700000		108		W F GLEASON A-1 #041255	BOONESVILLE (BEND CON	173.0	LONE STAR GAS CO
-GULF OIL CORPORATION			RECEIVED:	11/17/82	JA: TX				
8309951	F-08-59769	4246110059		108		B J O'NEAL NCT-B WELL #23	MCELROY	4.0	PHILLIPS PETROLEU
8309950	F-08-59768	4246110050		108		B J O'NEAL NCT-B WELL #24	MCELROY	4.3	PHILLIPS PETROLEU
8310023	F-08-059846	4213501289		108		C A GOLDSMITH #920	GOLDSMITH (5600)	1.3	PHILLIPS PETROLEU
8309966	F-08-059784	4246100988		108		CRIER-MCELROY WELL #A-20	MCELROY	9.9	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309977	F-08-059795	4246130354		108		CRIER-MCELROY WELL #A-40	MCELROY	26.9	PHILLIPS PETROLEU
8309975	F-08-059794	4246130217		108		CRIER-MCELROY WELL #A-45	MCELROY	20.7	PHILLIPS PETROLEU
8309974	F-08-059793	4246130357		108		CRIER-MCELROY WELL #A-46	MCELROY	4.9	PHILLIPS PETROLEU
8309965	F-08-059783	4210331452		108		CRIER-MCELROY WELL #A-60	MCELROY	6.5	PHILLIPS PETROLEU
8309964	F-08-059782	4210331481		108		CRIER-MCELROY WELL #A-64	MCELROY	4.0	PHILLIPS PETROLEU
8309945	F-08-59763	4210300398		108		CRIER-MCELROY WELL #100	MCELROY	22.0	PHILLIPS PETROLEU
8309961	F-08-059779	4210300408		108		CRIER-MCELROY WELL #117	MCELROY	0.8	PHILLIPS PETROLEU
8309967	F-08-05978	4246100960		108		CRIER-MCELROY WELL #122	MCELROY	0.7	PHILLIPS PETROLEU
8309971	F-08-059790	4210300416		108		CRIER-MCELROY WELL #127	MCELROY	0.3	PHILLIPS PETROLEU
8309970	F-08-059789	4210300418		108		CRIER-MCELROY WELL #129	MCELROY	7.7	PHILLIPS PETROLEU
8309968	F-08-059786	4210300430		108		CRIER-MCELROY WELL #132	MCELROY	8.4	PHILLIPS PETROLEU
8309980	F-08-059799	4246100976		108		CRIER-MCELROY WELL #153	MCELROY	0.3	PHILLIPS PETROLEU
8309909	F-08-59720	4210300421		108		CRIER-MCELROY WELL #156	MCELROY	8.0	PHILLIPS PETROLEU
8309911	F-08-59723	4210300426		108		CRIER-MCELROY WELL #163	MCELROY	0.6	PHILLIPS PETROLEU
8309976	F-08-059796	4246110191		108		CRIER-MCELROY WELL #177	MCELROY	0.6	PHILLIPS PETROLEU
8309952	F-08-59770	4246130128		108		CRIER-MCELROY WELL #182	MCELROY	12.0	PHILLIPS PETROLEU
8309969	F-08-059787	4210330605		108		CRIER-MCELROY WELL #184	MCELROY	5.5	PHILLIPS PETROLEU
8309994	F-08-059813	4210330676		108		CRIER-MCELROY WELL #193	MCELROY	8.3	PHILLIPS PETROLEU
8309906	F-08-59717	4210330658		108		CRIER-MCELROY WELL #195	MCELROY	11.4	PHILLIPS PETROLEU
8309958	F-08-059776	4246130355		108		CRIER-MCELROY WELL #208	MCELROY	5.0	PHILLIPS PETROLEU
8309910	F-08-59721	4210331007		108		CRIER-MCELROY WELL #213	MCELROY	1.8	PHILLIPS PETROLEU
8309957	F-08-059775	4246130443		108		CRIER-MCELROY WELL #223	MCELROY	4.0	PHILLIPS PETROLEU
8309955	F-08-059773	4246130450		108		CRIER-MCELROY WELL #227	MCELROY	22.0	PHILLIPS PETROLEU
8309956	F-08-059774	4246130470		108		CRIER-MCELROY WELL #228	MCELROY	16.3	PHILLIPS PETROLEU
8309954	F-08-59772	4246130479		108		CRIER-MCELROY WELL #230	MCELROY	9.9	PHILLIPS PETROLEU
8309978	F-08-059797	4246130505		108		CRIER-MCELROY WELL #237	MCELROY	15.8	PHILLIPS PETROLEU
8309981	F-08-059800	4246130529		108		CRIER-MCELROY WELL #247	MCELROY	19.5	PHILLIPS PETROLEU
8309991	F-08-059810	4210331273		108		CRIER-MCELROY WELL #249	MCELROY	4.6	PHILLIPS PETROLEU
8309992	F-08-059811	4210331271		108		CRIER-MCELROY WELL #250	MCELROY	11.7	PHILLIPS PETROLEU
8309953	F-08-59771	4246130560		108		CRIER-MCELROY WELL #257	MCELROY	7.1	PHILLIPS PETROLEU
8309993	F-08-059812	4210331349		108		CRIER-MCELROY WELL #259	MCELROY	2.1	PHILLIPS PETROLEU
8309989	F-08-059808	4210331350		108		CRIER-MCELROY WELL #260	MCELROY	4.9	PHILLIPS PETROLEU
8309982	F-08-059801	4246130616		108		CRIER-MCELROY WELL #268	MCELROY	6.5	PHILLIPS PETROLEU
8309962	F-08-059780	4210331413		108		CRIER-MCELROY WELL #269	MCELROY	7.4	PHILLIPS PETROLEU
8309983	F-08-059802	4246130634		108		CRIER-MCELROY WELL #272	MCELROY	4.9	PHILLIPS PETROLEU
8309984	F-08-059803	4246131159		108		CRIER-MCELROY WELL #280	MCELROY	3.4	PHILLIPS PETROLEU
8309985	F-08-059804	4246131161		108		CRIER-MCELROY WELL #281	MCELROY	13.0	PHILLIPS PETROLEU
8309986	F-08-059805	4246131160		108		CRIER-MCELROY WELL #282	MCELROY	8.9	PHILLIPS PETROLEU
8309987	F-08-059806	4246131169		108		CRIER-MCELROY WELL #284	MCELROY	5.2	PHILLIPS PETROLEU
8309988	F-08-059807	4246131175		108		CRIER-MCELROY WELL #285	MCELROY	5.5	PHILLIPS PETROLEU
8309990	F-08-059809	4246131177		108		CRIER-MCELROY WELL #288	MCELROY	7.1	PHILLIPS PETROLEU
8309913	F-08-59725	4246131197		108		CRIER-MCELROY WELL #296	MCELROY	3.7	PHILLIPS PETROLEU
8309907	F-08-59718	4246131198		108		CRIER-MCELROY WELL #297	MCELROY	9.9	PHILLIPS PETROLEU
8309908	F-08-59719	4246131218		108		CRIER-MCELROY WELL #303	MCELROY	8.9	PHILLIPS PETROLEU
8309912	F-08-59724	4246131221		108		CRIER-MCELROY WELL #308	MCELROY	13.6	PHILLIPS PETROLEU
8309963	F-08-059781	4246100310		108		CRIER-MCELROY WELL #50	MCELROY	8.2	PHILLIPS PETROLEU
8309973	F-08-059792	4210300376		108		CRIER-MCELROY WELL #52	MCELROY	1.9	PHILLIPS PETROLEU
8309960	F-08-059778	4246100317		108		CRIER-MCELROY WELL #65	MCELROY	10.3	PHILLIPS PETROLEU
8309972	F-08-059791	4246100176		108		CRIER-MCELROY WELL #7	MCELROY	0.8	PHILLIPS PETROLEU
8309959	F-08-059777	4246100320		108		CRIER-MCELROY WELL #72	MCELROY	2.5	PHILLIPS PETROLEU
8309979	F-08-059798	4246100328		108		CRIER-MCELROY WELL #94	MCELROY	0.3	PHILLIPS PETROLEU
8309926	F-08-59743	4237132420		108		EFFIE SIBLEY ET AL STATE WELL #2	USM	20.7	INTER NORTH INC
8309930	F-7C-59747	4210510136		108		F R HENDERSON JR A WELL #2	OZONA	24.8	SHELL PIPELINE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309928	F-7C-59745	4210510439		108		F R HENDERSON WELL #7	OZONA	30.0	SHELL PIPELINE CO
8309935	F-08-59753	4237110388		108		GEORGE M SHELTON JR ET AL WELL #1	USM	3.4	INTER NORTH INC
8310022	F-08-059845	4213533874		103		GOLDSMITH SAN ANDRES UNIT #2-177	GOLDSMITH SAN ANDRES	15.2	PHILLIPS PETROLEU
8309937	F-08-59755	4237110209		108		J H DYCHE B WELL #2	USM	3.0	INTER NORTH INC
8309940	F-7C-59758	4210510840		108		J H TIPPETT "E" NCT-B WELL #4	TIPPETT	26.6	NELEH GAS & OIL C
8309938	F-7C-59756	4210530126		108		J H TIPPETT "E" NCT-B WELL #14-U	TIPPETT	18.0	NELEH OIL & GAS C
8309936	F-7C-59754	4210530124		108		J H TIPPETT "E" NCT-B WELL #16-U	TIPPETT	2.7	NELEH OIL & GAS C
8309934	F-7C-59752	4210530072		108		J H TIPPETT "E" NCT-C WELL #13-U	TIPPETT	20.2	NELEH OIL & GAS C
8309943	F-7C-59761	4210510799		108		J H TIPPETT "E" WELL #2	TIPPETT	26.6	NELEH GAS & OIL C
8309944	F-7C-59762	4210530044		108		J H TIPPETT "G" WELL #11	TIPPETT	7.4	NELEH GAS & OIL C
8309920	F-08-59732	4246130697		108		J T MC ELROY CONSOLIDATED WELL #983	MCELROY	8.3	PHILLIPS PETROLEU
8309995	F-08-059814	4210300619		108		J T MCELROY CONSOLIDATED WELL #B-11	MCELROY	13.0	PHILLIPS PETROLEU
8309996	F-08-059815	4210300620		108		J T MCELROY CONSOLIDATED WELL #B-18	MCELROY	26.0	PHILLIPS PETROLEU
8309922	F-08-59734	4210300627		108		J T MCELROY CONSOLIDATED WELL #B-19	MCELROY	6.0	PHILLIPS PETROLEU
8310032	F-08-059856	4246102505		108		J T MCELROY CONSOLIDATED WELL #B-40	MCELROY	13.0	PHILLIPS PETROLEU
8310028	F-08-059851	4246102513		108		J T MCELROY CONSOLIDATED WELL #B-53	MCELROY	3.4	PHILLIPS PETROLEU
8309997	F-08-059816	4210330568		108		J T MCELROY CONSOLIDATED WELL #B-65	MCELROY	10.0	PHILLIPS PETROLEU
8309892	F-08-59702	4246130489		108		J T MCELROY CONSOLIDATED WELL #B-82	MCELROY	26.0	PHILLIPS PETROLEU
8309933	F-08-59751	4246130525		108		J T MCELROY CONSOLIDATED WELL #B-85	MCELROY	5.0	PHILLIPS PETROLEU
8309877	F-08-59683	4246131186		108		J T MCELROY CONSOLIDATED WELL #1003	MCELROY	16.7	PHILLIPS PETROLEU
8309878	F-08-59684	4246131201		108		J T MCELROY CONSOLIDATED WELL #1006	MCELROY	9.9	PHILLIPS PETROLEU
8309873	F-08-59679	4246131202		108		J T MCELROY CONSOLIDATED WELL #1007	MCELROY	12.0	PHILLIPS PETROLEU
8309883	F-08-59689	4246131203		108		J T MCELROY CONSOLIDATED WELL #1008	MCELROY	9.9	PHILLIPS PETROLEU
8309881	F-08-59687	4246131205		108		J T MCELROY CONSOLIDATED WELL #1010	MCELROY	10.8	PHILLIPS PETROLEU
8310058	F-08-059892	4246131212		108		J T MCELROY CONSOLIDATED WELL #1011	MCELROY	16.7	PHILLIPS PETROLEU
8309879	F-08-59685	4246131213		108		J T MCELROY CONSOLIDATED WELL #1012	MCELROY	15.2	PHILLIPS PETROLEU
8309880	F-08-59686	4246131216		108		J T MCELROY CONSOLIDATED WELL #1013	MCELROY	4.3	PHILLIPS PETROLEU
8309882	F-08-59688	4246131215		108		J T MCELROY CONSOLIDATED WELL #1014	MCELROY	6.8	PHILLIPS PETROLEU
8309860	F-08-59666	4246131226		108		J T MCELROY CONSOLIDATED WELL #1017	MCELROY	15.8	PHILLIPS PETROLEU
8310043	F-08-059867	4246101071		108		J T MCELROY CONSOLIDATED WELL #205	MCELROY	9.0	PHILLIPS PETROLEU
8309863	F-08-59669	4246101073		108		J T MCELROY CONSOLIDATED WELL #253	MCELROY	4.0	PHILLIPS PETROLEU
8310041	F-08-059865	4210300489		108		J T MCELROY CONSOLIDATED WELL #361	MCELROY	0.5	PHILLIPS PETROLEU
8310046	F-08-059870	4210305951		108		J T MCELROY CONSOLIDATED WELL #367	MCELROY	8.7	PHILLIPS PETROLEU
8309869	F-08-59675	4210300670		108		J T MCELROY CONSOLIDATED WELL #38	MCELROY	15.0	PHILLIPS PETROLEU
8309867	F-08-59673	4246100602		108		J T MCELROY CONSOLIDATED WELL #381	MCELROY	4.4	PHILLIPS PETROLEU
8309855	F-08-59660	4210300500		108		J T MCELROY CONSOLIDATED WELL #385	MCELROY	0.7	PHILLIPS PETROLEU
8309904	F-08-059715	4210302625		108		J T MCELROY CONSOLIDATED WELL #389	MCELROY	19.6	PHILLIPS PETROLEU
8310057	F-08-059891	4246100610		108		J T MCELROY CONSOLIDATED WELL #395	MCELROY	5.0	PHILLIPS PETROLEU
8310053	F-08-059886	4246100612		108		J T MCELROY CONSOLIDATED WELL #397	MCELROY	17.0	PHILLIPS PETROLEU
8310056	F-08-059890	4246100615		108		J T MCELROY CONSOLIDATED WELL #400	MCELROY	15.0	PHILLIPS PETROLEU
8310050	F-08-059882	4246100616		108		J T MCELROY CONSOLIDATED WELL #401	MCELROY	19.0	PHILLIPS PETROLEU
8309897	F-08-59707	4210300551		108		J T MCELROY CONSOLIDATED WELL #419	MCELROY	3.5	PHILLIPS PETROLEU
8309856	F-08-59661	4246100631		108		J T MCELROY CONSOLIDATED WELL #435	MCELROY	15.8	PHILLIPS PETROLEU
8309917	F-08-59729	4210300556		108		J T MCELROY CONSOLIDATED WELL #437	MCELROY	0.0	PHILLIPS PETROLEU
8310030	F-08-059853	4210300512		108		J T MCELROY CONSOLIDATED WELL #479	MCELROY	7.7	PHILLIPS PETROLEU
8309895	F-08-59705	4210300514		108		J T MCELROY CONSOLIDATED WELL #481	MCELROY	25.0	PHILLIPS PETROLEU
8309872	F-08-59678	4246100645		108		J T MCELROY CONSOLIDATED WELL #494	MCELROY	2.9	PHILLIPS PETROLEU
8309998	F-08-059817	4246100652		108		J T MCELROY CONSOLIDATED WELL #503	MCELROY	3.0	PHILLIPS PETROLEU
8310001	F-08-059820	4246100667		108		J T MCELROY CONSOLIDATED WELL #519	MCELROY	11.0	PHILLIPS PETROLEU
8309862	F-08-59668	4246100680		108		J T MCELROY CONSOLIDATED WELL #532	MCELROY	20.0	PHILLIPS PETROLEU
8309999	F-08-059818	4246102446		108		J T MCELROY CONSOLIDATED WELL #549	MCELROY	16.0	PHILLIPS PETROLEU
8310044	F-08-059868	4246102447		108		J T MCELROY CONSOLIDATED WELL #550	MCELROY	7.0	PHILLIPS PETROLEU
8310031	F-08-059854	4246102452		108		J T MCELROY CONSOLIDATED WELL #561	MCELROY	4.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310045	F-08-059869	4246102470		108		J T MCELROY CONSOLIDATED WELL #581	MCELROY	2.6	PHILLIPS PETROLEU
8310033	F-08-059857	4246102475		108		J T MCELROY CONSOLIDATED WELL #589	MCELROY	5.0	PHILLIPS PETROLEU
8309854	F-08-59659	4246102479		108		J T MCELROY CONSOLIDATED WELL #594	MCELROY	30.9	PHILLIPS PETROLEU
8309915	F-08-59727	4246102481		108		J T MCELROY CONSOLIDATED WELL #596	MCELROY	20.7	PHILLIPS PETROLEU
8310035	F-08-059859	4246110344		108		J T MCELROY CONSOLIDATED WELL #60	MCELROY	7.1	PHILLIPS PETROLEU
8310049	F-08-059881	4246102486		108		J T MCELROY CONSOLIDATED WELL #603	MCELROY	14.6	PHILLIPS PETROLEU
8309859	F-08-59665	4246102487		108		J T MCELROY CONSOLIDATED WELL #604	MCELROY	11.0	PHILLIPS PETROLEU
8309921	F-08-59733	4246102489		108		J T MCELROY CONSOLIDATED WELL #606	MCELROY	16.0	PHILLIPS PETROLEU
8310025	F-08-059848	4246102491		108		J T MCELROY CONSOLIDATED WELL #609	MCELROY	22.0	PHILLIPS PETROLEU
8309870	F-08-59676	4246110235		108		J T MCELROY CONSOLIDATED WELL #635	MCELROY	2.0	PHILLIPS PETROLEU
8310000	F-08-059819	4246130110		108		J T MCELROY CONSOLIDATED WELL #654	MCELROY	5.0	PHILLIPS PETROLEU
8309901	F-08-59712	4210330637		108		J T MCELROY CONSOLIDATED WELL #678	MCELROY	11.1	PHILLIPS PETROLEU
8310029	F-08-059852	4210330759		108		J T MCELROY CONSOLIDATED WELL #698	MCELROY	8.3	PHILLIPS PETROLEU
8309899	F-08-59710	4210330724		108		J T MCELROY CONSOLIDATED WELL #699	MCELROY	9.3	PHILLIPS PETROLEU
8309903	F-08-59714	4210330784		108		J T MCELROY CONSOLIDATED WELL #702	MCELROY	0.8	PHILLIPS PETROLEU
8310002	F-08-059821	4246130192		108		J T MCELROY CONSOLIDATED WELL #704	MCELROY	10.0	PHILLIPS PETROLEU
8310042	F-08-059866	4210330823		108		J T MCELROY CONSOLIDATED WELL #709	MCELROY	1.5	PHILLIPS PETROLEU
8309884	F-08-59690	4246130241		108		J T MCELROY CONSOLIDATED WELL #716	MCELROY	0.9	PHILLIPS PETROLEU
8310004	F-08-059823	4246130237		108		J T MCELROY CONSOLIDATED WELL #717	MCELROY	9.0	PHILLIPS PETROLEU
8309874	F-08-59680	4246130265		108		J T MCELROY CONSOLIDATED WELL #732	MCELROY	4.0	PHILLIPS PETROLEU
8309864	F-08-59670	4246130327		108		J T MCELROY CONSOLIDATED WELL #758	MCELROY	8.0	PHILLIPS PETROLEU
8310047	F-08-059879	4246130333		108		J T MCELROY CONSOLIDATED WELL #765	MCELROY	10.0	PHILLIPS PETROLEU
8309914	F-08-59726	4246130340		108		J T MCELROY CONSOLIDATED WELL #768	MCELROY	4.0	PHILLIPS PETROLEU
8310040	F-08-059864	4246130343		108		J T MCELROY CONSOLIDATED WELL #769	MCELROY	4.3	PHILLIPS PETROLEU
8310038	F-08-059862	4246130344		108		J T MCELROY CONSOLIDATED WELL #770	MCELROY	15.8	PHILLIPS PETROLEU
8310055	F-08-059889	4246130368		108		J T MCELROY CONSOLIDATED WELL #780	MCELROY	6.0	PHILLIPS PETROLEU
8310039	F-08-059863	4210330977		108		J T MCELROY CONSOLIDATED WELL #783	MCELROY	3.1	PHILLIPS PETROLEU
8310005	F-08-059824	4246130386		108		J T MCELROY CONSOLIDATED WELL #785	MCELROY	19.0	PHILLIPS PETROLEU
8309871	F-08-59677	4246130385		108		J T MCELROY CONSOLIDATED WELL #786	MCELROY	27.6	PHILLIPS PETROLEU
8309876	F-08-59682	4246130384		108		J T MCELROY CONSOLIDATED WELL #787	MCELROY	37.2	PHILLIPS PETROLEU
8309900	F-08-59711	4210331053		108		J T MCELROY CONSOLIDATED WELL #811	MCELROY	5.8	PHILLIPS PETROLEU
8309866	F-08-59672	4246130458		108		J T MCELROY CONSOLIDATED WELL #831	MCELROY	4.0	PHILLIPS PETROLEU
8309857	F-08-59662	4210331176		108		J T MCELROY CONSOLIDATED WELL #853	MCELROY	14.8	PHILLIPS PETROLEU
8309861	F-08-59667	4246130507		108		J T MCELROY CONSOLIDATED WELL #856	MCELROY	12.0	PHILLIPS PETROLEU
8309905	F-08-059716	4246130528		108		J T MCELROY CONSOLIDATED WELL #861	MCELROY	6.2	PHILLIPS PETROLEU
8310036	F-08-059860	4210331322		108		J T MCELROY CONSOLIDATED WELL #877	MCELROY	4.7	PHILLIPS PETROLEU
8309942	F-08-59760	4246130552		108		J T MCELROY CONSOLIDATED WELL #887	MCELROY	19.8	PHILLIPS PETROLEU
8309868	F-08-59674	4246130548		108		J T MCELROY CONSOLIDATED WELL #888	MCELROY	23.8	PHILLIPS PETROLEU
8309858	F-08-59664	4210331378		108		J T MCELROY CONSOLIDATED WELL #898	MCELROY	5.8	PHILLIPS PETROLEU
8309875	F-08-59681	4246130575		108		J T MCELROY CONSOLIDATED WELL #908	MCELROY	4.3	PHILLIPS PETROLEU
8310034	F-08-059858	4246130587		108		J T MCELROY CONSOLIDATED WELL #913	MCELROY	3.0	PHILLIPS PETROLEU
8310051	F-08-059883	4246130583		108		J T MCELROY CONSOLIDATED WELL #916	MCELROY	6.0	PHILLIPS PETROLEU
8309891	F-08-59701	4246130606		108		J T MCELROY CONSOLIDATED WELL #927	MCELROY	2.0	PHILLIPS PETROLEU
8309916	F-08-59728	4246130629		108		J T MCELROY CONSOLIDATED WELL #930	MCELROY	8.9	PHILLIPS PETROLEU
8309893	F-08-59703	4246130638		108		J T MCELROY CONSOLIDATED WELL #946	MCELROY	6.0	PHILLIPS PETROLEU
8309898	F-08-59708	4246130642		108		J T MCELROY CONSOLIDATED WELL #948	MCELROY	4.6	PHILLIPS PETROLEU
8310027	F-08-059850	4246130647		108		J T MCELROY CONSOLIDATED WELL #952	MCELROY	1.2	PHILLIPS PETROLEU
8310026	F-08-059849	4246130661		108		J T MCELROY CONSOLIDATED WELL #956	MCELROY	1.2	PHILLIPS PETROLEU
8309902	F-08-059713	4210331479		108		J T MCELROY CONSOLIDATED WELL #957	MCELROY	1.2	PHILLIPS PETROLEU
8309919	F-08-59731	4246130660		108		J T MCELROY CONSOLIDATED WELL #958	MCELROY	33.5	PHILLIPS PETROLEU
8310037	F-08-059861	4246130667		108		J T MCELROY CONSOLIDATED WELL #962	MCELROY	22.3	PHILLIPS PETROLEU
8309865	F-08-59671	4246130684		108		J T MCELROY CONSOLIDATED WELL #969	MCELROY	16.0	PHILLIPS PETROLEU
8309896	F-08-59706	4246130691		108		J T MCELROY CONSOLIDATED WELL #972	MCELROY	2.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309918	F-08-59730	4246130696		108		J T MCELROY CONSOLIDATED WELL #981	MCELROY	17.3	PHILLIPS PETROLEU
8310003	F-08-059822	4246130705		108		J T MCELROY CONSOLIDATED WELL #989	MCELROY	3.0	PHILLIPS PETROLEU
8310048	F-08-059880	4246131171		108		J T MCELROY CONSOLIDATED WELL #994	MCELROY	2.9	PHILLIPS PETROLEU
8310052	F-08-059885	4246131172		108		J T MCELROY CONSOLIDATED WELL #997	MCELROY	17.9	PHILLIPS PETROLEU
8310060	F-10-059893	4246131181		108		J T MCELROY CONSOLIDATED WELL #999	MCELROY	17.3	PHILLIPS PETROLEU
8310054	F-08-059888	4246100629		108		J T MCELROY CONSOLIDATED WELL 433	MCELROY	41.0	PHILLIPS PETROLEU
8309949	F-08-59767	4210330386		108		JAX M COWDEN NCT-F WELL #13	W E R	22.6	PHILLIPS PETROLEU
8309948	F-08-59766	4210330592		108		JAX M COWDEN NCT-F WELL #14	W E R	16.4	PHILLIPS PETROLEU
8309946	F-08-59764	4210330716		108		JAX M COWDEN NCT-F WELL #15	W E R	34.1	PHILLIPS PETROLEU
8309947	F-08-59765	4210330806		108		JAX M COWDEN NCT-F WELL #16	W E R	2.7	PHILLIPS PETROLEU
8309941	F-08-59759	4237132510		108		L H MILLAR ET AL TRE WELL #16	PUTNAM	40.3	PHILLIPS PETROLEU
8309939	F-08-59757	4237133080		108		MARIE LAURENCE ET AL WELL #1	USM	0.8	INTER NORTH INC
8309894	F-08-59704	4246100537		108		MCELROY CONSOLIDATED #1 WELL #M-270	MCELROY	1.0	PHILLIPS PETROLEU
8310024	F-08-059847	4246100726		108		MCELROY CONSOLIDATED #1 WELL #18	MCELROY	3.0	PHILLIPS PETROLEU
8309929	F-7C-5974	4246100708		108		MCELROY RANCH CO "L" WELL #3	JACK HERBERT	3.2	EL PASO NATURAL G
8309932	F-08-59750	4237130453		108		RUTH PRICE ET AL "D" NCT-B #3-U	EL CINCO	16.0	SEMLI GAS PIPELIN
8309830	F-10-59605	4217900000		108		SOUTH PAMPA MF #1-10	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309831	F-10-59606	4217900000		108		SOUTH PAMPA MF #1-11	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309832	F-10-59607	4217900000		108		SOUTH PAMPA MF #1-12	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309828	F-10-59602	4217900000		108		SOUTH PAMPA MF #1-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309827	F-10-59601	4217900000		108		SOUTH PAMPA MF #1-3	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309826	F-10-59600	4217900000		108		SOUTH PAMPA MF #1-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309825	F-10-59599	4217900000		108		SOUTH PAMPA MF #1-7	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309824	F-10-59598	4217900000		108		SOUTH PAMPA MF #1-8	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309829	F-10-59604	4217900000		108		SOUTH PAMPA MF #1-9	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309846	F-10-59634	4217900000		108		SOUTH PAMPA MF #3-3A	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309845	F-10-59633	4217900000		108		SOUTH PAMPA MF #3-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309844	F-10-59632	4217900000		108		SOUTH PAMPA MF #3-5	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309843	F-10-59631	4217900000		108		SOUTH PAMPA MF #3-7	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309842	F-10-59630	4217900000		108		SOUTH PAMPA MF #3-8A	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309841	F-10-59629	4217900000		108		SOUTH PAMPA MF #4-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309840	F-10-59628	4217900000		108		SOUTH PAMPA MF #4-8	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309839	F-10-59627	4217900000		108		SOUTH PAMPA MF #5-1	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309838	F-10-59626	4217900000		108		SOUTH PAMPA MF #5-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309837	F-10-59625	4217900000		108		SOUTH PAMPA MF #5-3	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309836	F-10-59627	4217900000		108		SOUTH PAMPA MF #5-5	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309835	F-10-59623	4217900000		108		SOUTH PAMPA MF #6-1	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309834	F-10-59622	4217900000		108		SOUTH PAMPA MF #6-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309833	F-10-59621	4217900000		108		SOUTH PAMPA MF #6-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309931	F-7C-59748	4210531162		108		STATE IT WELL #6	FARMER (SAN ANDRES)	6.2	J L DAVIS
8309927	F-7C-59744	4210511020		108		STATE SCHOOL BOARD MF WELL #1	TIPPETT WEST (HUELO)	22.6	SHELL PIPELINE CO
8309925	F-7C-59742	4238331190		108		STATE WP WELL #2	AMIGO (SAN ANDRES)	11.4	INTER NORTH INC
-HENDERSON CLAY PRODUCTS INC				RECEIVED:		11/17/82 JA: TX			
8310073	F-06-059929	4240131415		102-4		MARTHA JANE DOERGE #1 RRC#101217	MARTHA JANE (PETTET U	100.0	HENDERSON CLAY PR
-INWOOD EXPLORATION INC				RECEIVED:		11/17/82 JA: TX			
8310076	F-7B-059937	4236732237		102-4		H T WHITE #2 (100943)	WORLEY (STRAWN)	4.0	SOUTHWESTERN GAS
-J M HUBER CORPORATION				RECEIVED:		11/17/82 JA: TX			
8310008	F-10-059828	4234130828		103		PRITCHARD "C" #6	PANHANDLE	37.0	COLORADO INTERSTA
-MID-AMERICA PETROLEUM INC				RECEIVED:		11/17/82 JA: TX			
8309888	F-7C-59697	4238331823		103		JIM DIXON #1	SPRABERRY (TREND AREA	10.0	INTER NORTH INC
8309887	F-7C-59696	4238331822		103		JIM DIXON #2	SPRABERRY (TREND AREA	9.0	INTER NORTH INC
8309889	F-7C-59698	4238331821		103		JIM DIXON #3	SPRABERRY (TREND AREA	10.0	INTER NORTH INC
8309890	F-7C-59699	4238331824		103		JIM DIXON #4	SPRABERRY (TREND AREA	9.0	INTER NORTH INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MILLS BENNETT ESTATE				RECEIVED:	11/17/82	JA: TX			
8310083	F-04-059976	4204730981		108		MILLS BENNETT ESTATE FEE #54	MILLS BENNETT (D-1 SA	0.0	TEXAS EASTERN TRA
-MITCHELL ENERGY CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309849	F-09-59646	4249700000		108		CLARENCE J HARRISON #1 #045062	BOONSVILLE (BEND CONG	11.6	NATURAL GAS PIPEL
8309847	F-09-59636	4249700000		108		H H DEARMAN #1 #028621	BOONSVILLE (BEND CONG	8.5	NATURAL GAS PIPEL
8309848	F-7B-59637	4236700000		108		J J YATES #1 #077968	LAKE MINERAL WELLS (4	9.6	NATURAL GAS PIPEL
8309850	F-09-59648	4249700000		108		N R ROBERTS #1 T 54287	T BOONSVILLE (BEND CO	9.7	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	11/17/82	JA: TX			
8310006	F-8A-059825	4221933544		103		NORTH CENTRAL LEVELLAND UNIT #370	LEVELLAND	1.5	AMOCO PRODUCTION
-MR OIL CO				RECEIVED:	11/17/82	JA: TX			
8309885	F-08-59694	4247532697		103		I B MCFARLAND SEC 29 #16	WARD-ESTES NORTH	33.0	WESTERN COUNTIES
8309886	F-08-59695	4247532513		103		JOHNSON -B- #10	WARD-ESTES NORTH	45.0	WESTERN COUNTIES
-NORTHRIDGE OIL CO				RECEIVED:	11/17/82	JA: TX			
8309853	F-09-59654	4207732329		102-4		CATHERINE SCHEFFE #2	ARROWHEAD CADDO	20.0	FAGADAU ENERGY CO
-PANHANDLE ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8310071	F-10-059923	4206531185		103		WHITE #3 (ID #35160)	PANHANDLE CARSON	140.0	GETTY OIL CO
-PAR PRODUCING CO				RECEIVED:	11/17/82	JA: TX			
8309821	F-03-59588	4214931331		102-2		KASPAR	GIDDINGS (AUSTIN CHAL	40.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/17/82	JA: TX			
8310009	F-08-059830	4213503113		108		G S ANDECTOR #P-08	GOLDSMITH (CLEARFORK)	12.0	EL PASO NATURAL G
8310011	F-08-059833	4200304766		108		UNIVERSITY ANDREWS #40	EMBAR (PERMIAN)	10.0	EL PASO NATURAL G
8310012	F-08-05983	4200304796		108		UNIVERSITY ANDREWS #93	EMBAR (PERMIAN)	14.0	EL PASO NATURAL G
8310010	F-08-059832	4249503476		108		WALTON A #1	KERMIT (YATES)	25.0	CABOT CORP
-POWDER HORN OIL INC				RECEIVED:	11/17/82	JA: TX			
8310017	F-7B-059840	4204900000		108		T W PALMER #1-A	BROWN COUNTY REGULAR	0.0	EL PASO HYDROCARB
-RAY HERRING				RECEIVED:	11/17/82	JA: TX			
8309851	F-09-59649	4250336186		102-4		BENNETT #1	CLARK (MARBLE FALLS)	125.0	SUN GAS TRANSMISS
-RYDER SCOTT OIL CO				RECEIVED:	11/17/82	JA: TX			
8310080	F-09-059963	4223734414		102-4		COOPER #1	COOPER (CONGLOMERATE)	128.0	
8310081	F-09-059964	4223734573		102-4		COOPER #2	COOPER (CONGLOMERATE)	110.0	
-SNOW OIL CO				RECEIVED:	11/17/82	JA: TX			
8310016	F-7B-059839	4213333333		102-4		REED #1 (17895)	JMJ (MARBLE FALLS)	43.0	LONE STAR GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	11/17/82	JA: TX			
8310070	F-08-059920	4247510436		108		SOUTHLAND FEE #1	SOUTH WARD	11.0	WARREN PETROLEUM
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/17/82	JA: TX			
8310072	F-08-059925	4213533631		103		NORTH LAWSON UNIT #5-8	LAWSON-SAN ANDRES	24.0	PHILLIPS PETROLEU
8309823	F-04-059592	4224900000		108		SEELIGSON UNIT #40-51C	SEELIGSON (ZONE 19B-D	15.0	TENNESSEE GAS PIP
-TARINA OIL CO				RECEIVED:	11/17/82	JA: TX			
8310089	F-01-060010	4212732219		103		BRISCOE RANCHES INC "A" #1150	CATARINA S W (OLMOS)	144.0	DELHI GAS PIPELIN
8310088	F-01-060009	4212732318		103		BRISCOE RANCHES INC "A" #1572	CATARINA S W (OLMOS)	72.0	DELHI GAS PIPELIN
8310090	F-01-060012	4212732221		103		SPRINGMAN #1251	CATARINA S W (OLMOS)	24.0	DELHI GAS PIPELIN
-TAYLOR OPERATING COMPANY				RECEIVED:	11/17/82	JA: TX			
8309924	F-09-59736	4249700000		103		KENT #1 (22365)	CHICO W (CONGL 5700)	109.5	LONE STAR GAS CO
-TERRA RESOURCES INC				RECEIVED:	11/17/82	JA: TX			
8310007	F-7C-059827	4246131887		102-2		CORBETT ESTATE #2	CORBETT (BEND DETRIDA	0.0	NEW ENERGY CO
-TUCKER DRILLING COMPANY INC				RECEIVED:	11/17/82	JA: TX			
8310069	F-7C-059911	4223531935		103		LINDLEY "40" #3	ROCK PEN (CANYON)	82.8	INTER NORTH INC
-VINSON EXPLORATION				RECEIVED:	11/17/82	JA: TX			
8309822	F-7C-59589	4210500000		102-4		UNIVERSITY "33-F" #1	INGHAM (QUEEN)	1.0	SOUTHWESTERN GAS
-W J WHITT				RECEIVED:	11/17/82	JA: TX			
8310013	F-7B-059836	4241734645		102-4		PARRISH #2 (18557)	BIRTHDAY (MORAN)	41.0	LONE STAR GAS CO
8310014	F-7B-059837	4204933169		102-4		4-W RANCH "A" #6 (18645)	DUDLEY (CADDO)	48.0	EL PASO HYDROCARB
8310015	F-7B-059838	4204933171		102-4		4-W RANCH "A" #8 (18645)	DUDLEY (CADDO)	26.0	EL PASO HYDROCARB
-W R EDWARDS JR				RECEIVED:	11/17/82	JA: TX			
8310082	F-10-059971	4223300000		103		CASTLEMAN #2A	PANHANDLE MOORE	153.0	DIAMOND SHAMROCK

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denoted additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each MGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old BCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34505 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-EARL M KNIGHTON				RECEIVED:	11/22/82	JA: KS			
8310307	K-82-0238	1518500000		108-ER		SUITTER B #1	MACKSVILLE	0.0	KANSAS NEBRASKA N
-IMPERIAL OIL COMPANY				RECEIVED:	11/22/82	JA: KS			
8310310	K 82-0034	1515121000		102-2		LEMON #1-7	CARVER ROBBINS WEST	3.7	PANHANDLE EASTERN
-INCA OIL CO				RECEIVED:	11/17/82	JA: KS			
8310093	K-82-0670	1517520122		103		HUTCHINSON 1-17	BLUE BELL	127.0	PANHANDLE EASTERN
-J MARK RICHARDSON				RECEIVED:	11/17/82	JA: KS			
8310092	K-82-0753	1515121054		102-2		HARPER FARMS A #2	CARVER ROBBINS	45.0	PANHANDLE EASTERN
-MCCOY PETROLEUM CORP				RECEIVED:	11/22/82	JA: KS			
8310309	K 81-1000	1507720716		103		CATLIN-MASNER #1	SULLIVAN STALNAKER SA	100.0	PEOPLES NATURAL G
-MIDWESTERN EXPLORATION CO				RECEIVED:	11/22/82	JA: KS			
8310308	K 82-0996	1512930003		103		MCGEE #1-11	GREENWOOD GAS FIELD	40.0	COLORADO INTERSTA
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-AZTEC PRODUCING CO INC				RECEIVED:	11/23/82	JA: MI			
8310304		2110134076		102-4		STATE MANISTEE UNIT #1-1A	MANISTEE UNIT #1-1	0.0	MICHIGAN CONSOLID
8310305		2110132621		102-4		STATE OF MICH - MANISTEE UT #1-2	MANSITEE UNIT #1-2	0.0	MICHIGAN CONSOLID
8310306		2110132699		102-4		STATE OF MICH - MANISTEE UT #3-2A	MANISTEE UNIT	0.0	MICHIGAN CONSOLID
NORTH DAKOTA INDUSTRIAL COMMISSION									
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/18/82	JA: ND			
8310299	621	3305300684		102-4		EDGAR BN 11-13	ROUGHRIDER	0.0	KOCH OIL CO
8310300	622	3305301399		102-4		SHEEP CREEK 9-21	SHEEP CREEK	0.0	KOCH OIL CO
-EVERETT DRILLING VENTURES INC				RECEIVED:	11/18/82	JA: ND			
8310298	620	3310500967		102-4		LONG CREEK #4	UNNAMED	547.5	PHILLIPS PETROLEU
-MESA PETROLEUM CO				RECEIVED:	11/18/82	JA: ND			
8310296	618	3302500211		102-4		BULLINGER #1-30	WILDCAT	407.0	
-MGF OIL CORP				RECEIVED:	11/18/82	JA: ND			
8310297	619	3300700766		102-4		BURLINGTON NORTHERN 42-1	DEVILS PASS	494.0	KOCH HYDROCARBON
-RANGER OIL CO				RECEIVED:	11/18/82	JA: ND			
8310301	623	3310500872		102-4		CARLSON #2-36	BATTLEVIEW	0.0	AMINOIL USA INC
8310295	616	3310500985		102-3		MCGINNITY #14-6	TEMPLE	140.0	AMINOIL USA INC
8310303	625	3310500939		102-4		SKARDERUD #2-7	TEMPLE	5.5	AMINOIL USA
8310302	624	3305301279		102-4		WOLLAN #10-15	BERG	0.0	AMINOIL USA INC
-TEXACO INC				RECEIVED:	11/18/82	JA: ND			
8310294	615	3305301451		102-3		ELIZABET SIVERTSON "A" #2	BLUE BUTTES	179.0	MONTANA DAKOTA UT
8310292	613	3305301448		102-3		F P KEOGH #6	BLUE BUTTES	356.0	
8310293	614	3305301449		102-3		G V LEVANG (NCT-1) #1	BLUE BUTTES	81.8	MONTANA DAKOTA UT
8310291	617	3305301051		102-3		R L OLSON #10	BLUE BUTTES	108.4	MONTANA DAKOTA UT

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMERADA HESS CORPORATION				RECEIVED:	11/15/82	JA: NM			
8310099		3002500000		108		L M LAMBERT #8	MONUMENT	3.9	WARREN PETROLEUM
8310100		3002500000		108		L M LAMBERT #9	MONUMENT	3.7	WARREN PETROLEUM
-AMOCO PRODUCTION CO				RECEIVED:	11/15/82	JA: NM			
8310095		3004508104		108		MARTINEZ GAS COM "D" #1	AZTEC - PICTURED CLIF	12.0	EL PASO NATURAL G
8310102		3002527494		102-4		STATE LL #1	WEST OSUDO (MORROW)	1825.0	EL PASO NATURAL G
-DOYLE HARTMAN OIL OPERATOR				RECEIVED:	11/22/82	JA: NM			
8310315		3002527808		103		BYROM WILLIAMS #1	EUMONT GAS	40.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/15/82	JA: NM			
8310098		3004524602		108		ATLANTIC A #13	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8310097		3004520885		108		ATLANTIC D COM H #9	BLANCO-PICTURED CLIFF	20.0	EL PASO NATURAL G
8310103		3003960067		108-PB		S J 27-5 UNIT #29	TAPACITO-PICTURED CLI	0.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/22/82	JA: NM			
8310319		3003908116		108		HARVEY A #3	BLANCO-MESA VERDE	22.0	EL PASO NATURAL G
-FLAG-REDFERN OIL CO				RECEIVED:	11/22/82	JA: NM			
8310314		3002527456		103		OSUDO ST COM#2 LG-2061;A-1375-E1723	N OSUDO MORROW	10.9	WARREN PETROLEUM
-GETTY OIL COMPANY				RECEIVED:	11/15/82	JA: NM			
8310094		3002500000		108		STATE "P" UNIT #12	LOVINGTON PADDOCK	0.4	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	11/22/82	JA: NM			
8310317		3002500000		108		STATE "P" UNIT #7	LOVINGTON PADDOCK	2.5	PHILLIPS PETROLEU
-HARVEY E YATES COMPANY				RECEIVED:	11/15/82	JA: NM			
8310101		3000561212		102-4		SEYMOUR STATE COM #1	WILDCAT	0.0	
-MESA PETROLEUM CO				RECEIVED:	11/15/82	JA: NM			
8310104		3000561555		102-3	107-TF	PETE COM #1	PECOS SLOPE ABO	576.0	
8310106		3000561543		102-2	107-TF	ROUND TOP STATE #7	UNDESIGNATED ABO	353.0	
8310105		3000561667		102-3	107-TF	SAND COM #1	PECOS SLOPE ABO	366.0	
-MESA PETROLEUM CO				RECEIVED:	11/22/82	JA: NM			
8310321		3000561394		102-3		NEAL COM #1	PECOS SLOPE ABO	104.0	
-PIONEER PRODUCTION CORPORATION				RECEIVED:	11/22/82	JA: NM			
8310312		3004500000		102-4		HARTMAN #1-E	CHACRA (UNDESIGNATED)	0.0	PIONEER CORP
8310311		3004500000		102-4		SALMON #1-E	CHACRA (UNDESIGNATED)	0.0	PIONEER CORP
8310313		3004500000		102-4		SHEPHERD-KELSEY #1-E	CHACRA	0.0	PIONEER CORP
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	11/15/82	JA: NM			
8310096		3004500000		108		MIMS STATE COM #2	BASIN DAKOTA	10.0	SOUTHERN UNION GA
-SOUTHLAND ROYALTY CO				RECEIVED:	11/15/82	JA: NM			
8310107		3003922937		103		JOHNSON #1A	BLANCO	50.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	11/22/82	JA: NM			
8310320		3004500000		108-ER		LAWSON #3	BLANCO PICTURED CLIFF	0.0	SOUTHERN UNION GA
8310316		3001522955		108		STATE "G" COM #1	ANGELL RANCH	7.0	EL PASO NATURAL G
-STEVENS OPERATING CORP				RECEIVED:	11/22/82	JA: NM			
8310333		3000500000		108		CITGO "A" STATE #2	TWIN LAKES - SAN ANDR	11.4	MAPCO PRODUCTION
8310326		3000560329		108		CITGO STATE #2	TWIN LAKES - SAN ANDR	2.5	MAPCO PRODUCTION
8310331		3000560010		108		CITGO STATE #3	TWIN LAKES - SAN ANDR	10.1	MAPCO PRODUCTION
8310323		3000560533		108		CITGO STATE #5	TWIN LAKES - SAN ANDR	3.7	MAPCO PRODUCTION
8310328		3000500000		108		O'BRIEN "C" #2	TWIN LAKES - SAN ANDR	11.6	MAPCO PRODUCTION
8310327		3000560248		108		O'BRIEN "C" #3	TWIN LAKES - SAN ANDR	12.8	MAPCO PRODUCTION
8310335		3000560028		108		O'BRIEN "C" #5	TWIN LAKES - SAN ANDR	2.2	MAPCO PRODUCTION
8310334		3000560297		108		O'BRIEN "C" #6	TWIN LAKES - SAN ANDR	2.3	MAPCO PRODUCTION
8310329		3000560468		108		O'BRIEN "E" #1	TWIN LAKES - SAN ANDR	9.7	MAPCO PRODUCTION
8310324		3000560794		108		O'BRIEN "E" #4	TWIN LAKES - SAN ANDR	2.0	MAPCO PRODUCTION

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310318		3000560717	108			O'BRIEN "F" #5	TWIN LAKES - SAN ANDR	17.2	MAPCO PRODUCTION
8310325		3000560732	108			O'BRIEN "F" #6	TWIN LAKES - SAN ANDR	5.5	MAPCO PRODUCTION
8310322		3000560596	108			O'BRIEN "K" #3	TWIN LAKES - SAN ANDR	2.0	MAPCO PRODUCTION
8310332		3000560334	108			STATE "CH" COM #2	TWIN LAKES - SAN ANDR	18.5	MAPCO PRODUCTION
8310330		3000560470	108			STATE "CH" COM #3	TWIN LAKES - SAN ANDR	5.7	MAPCO PRODUCTION

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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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-GYPSUM ENERGY MANAGEMENT CO RECEIVED: 11/15/82 JA: NY

8310145	4132	3103715883	103			ABRAMS #1	HURON CREEK	6.2	US GYPSUM CO
8310120	4072	3103713917	103			BURKHARDT #1	HURON CREEK	2.3	U S GYPSUM CO
8310158	4057	3103713846	108			C MARTIN #1	HURON CREEK	5.2	US GYPSUM CO
8310161	4052	3103713902	108			CAPWELL #1	HURON CREEK	0.4	U S GYPSUM CO
8310133	4130	3103715881	103			CLARKE #1	HURON CREEK	3.5	US GYPSUM CO
8310160	4054	3103713848	108			CZAPECZKA #1	HURON CREEK	9.1	US GYPSUM CO
8310162	4049	3103713849	108			CZAPECZKA #2	HURON CREEK	9.4	US GYPSUM CO
8310163	4047	3103713852	108			DANCER #1	HURON CREEK	6.3	US GYPSUM CO
8310128	4098	3103715264	103			DANSER #2	HURON CREEK	1.6	U S GYPSUM CO
8310134	4128	3103715921	103			DARKER #1	HURON CREEK	0.4	US GYPSUM CO
8310135	4126	3103716001	103			FENTON #1	HURON CREEK	1.3	US GYPSUM CO
8310164	4045	3103713855	108			FOSS #1	HURON CREEK	0.4	US GYPSUM CO
8310165	4043	3103713882	108			FOSS #2	HURON CREEK	0.1	US GYPSUM CO
8310136	4096	3103715164	103			GASBARRINI #1	HURON CREEK	8.2	US GYPSUM CO
8310140	4124	3103715882	103			GILDNER #1	HURON CREEK	2.3	US GYPSUM CO
8310166	4041	3103713853	108			GOLDING #1	HURON CREEK	16.5	US GYPSUM CO
8310123	4070	3103713883	103			HAAS #1	HURON CREEK	3.6	U S GYPSUM CO
8310154	4069	3103713883	108			HAAS #1	HURON CREEK	3.6	US GYPSUM CO
8310111	4094	3103715166	103			HAAS #2	HURON CREEK	2.8	U S GYPSUM CO
8310138	4122	3103715920	103			HAGEN #1	HURON CREEK	8.2	US GYPSUM CO
8310124	4067	3103713974	103			HEGGE #1	HURON CREEK	6.3	U S GYPSUM CO
8310155	4068	3103713974	108			HEGGE #1	HURON CREEK	6.3	US GYPSUM CO
8310110	4066	3103713857	103			JANKOWSKI #1	HURON CREEK	15.0	U S GYPSUM CO
8310144	4064	3103713851	108			JAVA #1	HURON CREEK	0.6	US GYPSUM CO
8310112	4092	3103715169	103			JERICHO LAKE #1	HURON CREEK	5.0	U S GYPSUM CO
8310156	4061	3103713847	108			KERN #1	HURON CREEK	9.8	US GYPSUM CO
8310139	4120	3103715898	103			KONFEDERATH #1	HURON CREEK	3.9	US GYPSUM CO
8310157	4059	3103713856	108			LAMB #1	HURON CREEK	4.0	US GYPSUM CO
8310113	4090	3103715165	103			LAMB #2	HURON CREEK	12.0	U S GYPSUM CO
8310137	4118	3103715899	103			MANNE #1	HURON CREEK	2.4	US GYPSUM CO
8310121	4086	3102712918	103			PECK #1	HURON CREEK	7.5	U S GYPSUM CO
8310152	4085	3103713918	108			PECK #1	HURON CREEK	7.5	US GYPSUM CO
8310122	4084	3103713981	103			PENKSZYK #1	HURON CREEK	4.5	U S GYPSUM CO
8310153	4083	3103713981	108			PENKSZYK #1	HURON CREEK	4.5	US GYPSUM CO
8310115	4082	3103713973	103			PERRIN #1	HURON CREEK	5.7	U S GYPSUM CO
8310146	4081	3103713973	108			PERRIN #1	HURON CREEK	5.7	US GYPSUM
8310143	4116	3103715879	103			PERRY #1	HURON CREEK	2.5	US GYPSUM CO
8310141	4114	3103715884	103			PHELPS #2	INDIAN FALLS	2.2	US GYPSUM CO
8310114	4088	3103715167	103			POKORNY #1	HURON CREEK	9.5	U S GYPSUM CO
8310159	4055	3103713884	108			R MILLER #2	HURON CREEK	12.0	US GYPSUM CO
8310108	4040	3103713300	103			RAY MILLER #1	HURON CREEK	9.1	U S GYPSUM CO
8310167	4039	3103713300	108			RAY MILLER #1	HURON CREEK	9.1	US GYPSUM CO
8310142	4112	3103715880	103			READ #1	HURON CREEK	1.0	US GYPSUM CO
8310147	4079	3103713972	108			RICHELY #1	HURON CREEK	2.2	US GYPSUM CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310116	4080	3103713972		103		RICHLEY #1	HURON CREEK	2.2	U S GYPSUM CO
8310127	4099	3103715163		103		SCHUNK #1	HURON CREEK	1.5	U S GYPSUM CO
8310129	4110	3103715328		103		SCHUNK #2A	HURON CREEK	0.8	U S GYPSUM CO
8310130	4107	3103715162		103		SCHUNK #3	HURON CREEK	1.0	U S GYPSUM CO
8310126	4101	3103715170		103		SEAMANS #1	HURON CREEK	1.2	U S GYPSUM CO
8310109	4038	3103713250		103		SMITH #1	HURON CREEK	7.1	U S GYPSUM CO
8310168	4037	3103713250		108		SMITH #1	HURON CREEK	7.1	US GYPSUM CO
8310118	4076	3103713901		103		SPIOTTA #1	HURON CREEK	4.2	U S GYPSUM CO
8310149	4075	3103713901		108		SPIOTTA #1	HURON CREEK	4.2	US GYPSUM CO
8310132	4134	3103716172		103		STALICA #1	HURON CREEK	2.5	US GYPSUM CO
8310131	4106	3103715252		103		U S G #1	INDIAN FALLS	1.2	U S GYPSUM CO
8310125	4104	3103715168		103		WINKSTERN #1	HURON CREEK	24.3	U S GYPSUM CO
8310117	4078	3103713850		103		WITTMAN #1	HURON CREEK	0.3	U S GYPSUM CO
8310148	4077	3103713850		108		WITTMAN #1	HURON CREEK	0.3	US GYPSUM CO
8310119	4074	3103713885		103		WITYK #1	HURON CREEK	9.1	U S GYPSUM CO
8310151	4073	3103713885		108		WITYK #1	HURON CREEK	9.1	US GYPSUM CO
-SEIS-EX GEOPHYSICAL LTD				RECEIVED:	11/15/82	JA: NY			
8310150	3947	3101317646		107-TF		SEIS-EX REYNOLDS #1	UNNAMED	30.0	COLUMBIA GAS TRAN
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OKLAHOMA CORPORATION COMMISSION									
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-A & P DRILLING CO INC				RECEIVED:	11/12/82	JA: OK			
8310188	17754	3508300000		103		KEENE-RAHE #2	CRESCENT LOVELL	0.0	EASON OIL CO
-ARROWHEAD ENERGY CO				RECEIVED:	11/12/82	JA: OK		14.6	COLORADO GAS COMP
8310171	17681	3511721172		103		CHARITY #1			
-BERRY PETROLEUM CORP				RECEIVED:	11/12/82	JA: OK	W CLEO SPRINGS	37.0	RINGWOOD GATHERIN
8310169	17689	3509322321		103		CORNELSON 1-4			
-BOGERT OIL CO				RECEIVED:	11/12/82	JA: OK	SOONER TREND	217.0	CONOCO INC
8310176	17659	3508321986		103		DRYE #2-35			
-DOAK OIL INC				RECEIVED:	11/12/82	JA: OK		1.2	DIAMOND *S* GAS S
8310173	17674	3513100000		108		PLUMER #1			
-HARRY H DIAMOND				RECEIVED:	11/12/82	JA: OK	GREASY CREEK	14.3	OKLAHOMA GAS & EL
8310179	17707	3506300000		108		JOHNSON #1	GREASY CREEK	5.0	OKLAHOMA GAS & EL
8310180	17706	3506300000		108		LASHLEY #1			
-HIGHLANDS GOODALL & GREER INC				RECEIVED:	11/12/82	JA: OK		0.0	EL PASO NATURAL G
8310174	17662	3501121636		103		SHAW #1-6			
-JAKE L HAMON				RECEIVED:	11/12/82	JA: OK	NORTH GUTHRIE	27.0	EASON OIL CO
8310170	17685	3508322028		103		BOZARTH #1-D			
-JWD OIL & GAS				RECEIVED:	11/12/82	JA: OK	PUMPKIN CENTER	0.0	MANN INDUSTRIES I
8310177	17723	3503120953		103		DELLUOMO #3			
-PHASE III OIL & GAS INC				RECEIVED:	11/12/82	JA: OK	PUMPKIN CENTER	0.0	MANN INDUSTRIES I
8310178	17722	3503120872		103		BUCKLER #1			
-RICKS EXPLORATION CO				RECEIVED:	11/12/82	JA: OK	NORTH ANADARKO FIELD	989.0	TENNESSEE GAS PIP
8310186	21714	3501521227		107-DP		TURNBILL #1			
-RONNIE BLUBAUGH				RECEIVED:	11/12/82	JA: OK	NOT NAMED	40.0	ARKANSAS-LOUISIAN
8310172	17679	3507122555		103		HAYDEN #1			
-TXO PRODUCTION CORP				RECEIVED:	11/12/82	JA: OK	WEST DURHAM	0.0	DELHI GAS PIPELIN
8310184	21789	3512900000		107-PE		DAVIS #1	WEST DURHAM	0.0	DELHI GAS PIPELIN
8310183	21791	3512900000		107-PE		DUNN #1	WEST DURHAM	0.0	DELHI GAS PIPELIN
8310181	21793	3512900000		107-PE		PARK #1	WEST DURHAM	0.0	DELHI GAS PIPELIN
8310185	21790	3512900000		107-PE		SHAW "A" #1	WEST DURHAM	0.0	DELHI GAS PIPELIN
8310182	21792	3512900000		107-PE		WATSON #1			
-WARD PETROLEUM CORP				RECEIVED:	11/12/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310189	17751	3505121206		103		GERTIE #1	S W NORGE	220.0	
-WESLEY WEBBER				RECEIVED:	11/12/82	JA: OK			
8310175	17660	3513723035		103		SPEARS "B" #19	SHO-VEL-TUM	14.0	GETTY OIL CO
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	11/12/82	JA: OK			
8310190	17747	3500320836		103		JANTZEN #1-18	SOUTHEAST HELENA	18.3	UNION TEXAS PETRO
-WESTHEIMER-NEUSTADT CORP				RECEIVED:	11/12/82	JA: OK			
8310187	18402	3501922505		103		PERKINS #1	SHO-LEM	360.0	
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WEST VIRGINIA DEPARTMENT OF MINES									
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-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	11/15/82	JA: WV			
8310194		4700100778		108		C J MITCHELL 12149	PLEASANT	0.0	GENERAL SYSTEM PU
8310192		4707700205		108		DENNIS HOLMES 12584	LYON DISTRICT	17.0	GENERAL SYSTEM PU
8310193		3713100704		108		POCAHONTAS LAND CORP 11340	BARKERS RIDGE DISTRIC	7.8	GENERAL SYSTEM PU
-MILLS DRILLING CO INC				RECEIVED:	11/15/82	JA: WV			
8310191		4709901593		107-DV		DC & PATRICIA MORRIS JR WELL #1	BUTLER DISTRICT	11.0	ROARING FORK GAS
-STERLING DRILLING & PROD CO INC				RECEIVED:	11/15/82	JA: WV			
8310195		4708703512		103		FIELDS #372	WALTON DISTRICT	17.4	ROARING FORK CO
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
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-AMOCO PRODUCTION CO				RECEIVED:	11/19/82	JA: NM 4			
8310246	NM 0966-82	3004524356		103		JACK FROST "B" #1E	ANGELS PEAK-GALLUP	4.0	EL PASO NATURAL G
8310237	NM-1010-82	3004524667		103		JACK FROST "D" #1E	BASIN DAKOTA	11.0	EL PASO NATURAL G
8310282	NM-1078-82-A	3003922566		103		JICARILLA CONTRACT 148 #26	OTERO CHACRA	24.0	EL PASO NATURAL G
8310283	NM-1078-82-B	3003922566		103		JICARILLA CONTRACT 148 #26	SOUTH BLANCO - PICTUR	81.0	NORTHWEST PIPELIN
8310284	NM-1079-82	3003921994		103		JICARILLA GAS COM 35 "D" #1	OTERO GALLUP	19.0	NORTHWEST PIPELIN
8310287	NM-1076-82	3004525305		103		LEFKOVITZ GAS COM "B" #1E	BASIN DAKOTA	15.0	EL PASO NATURAL G
8310288	NM-1077-82	3004525305		103		LEFKOVITZ GAS COM "C" #1	BLANCO MESAVERDE	20.0	EL PASO NATURAL G
8310234	NM-1012-82	3004524880		103		MARTIN GAS COM "B" #1E	BASIN DAKOTA	32.0	EL PASO NATURAL G
8310238	NM-1011-82	3004524880		103		MARTIN GAS COM "H" #1	FULCHER KUTZ - PICTUR	7.0	EL PASO NATURAL G
8310204	NM 0834-82-A	3003922767		103		ROSA UNIT #86	BASIN DAKOTA	28.0	NORTHWEST PIPELIN
8310211	NM 0834-82-B	3003922767		103		ROSA UNIT #86	WILDCAT-GALLUP	28.0	NORTHWEST PIPELIN
8310264	NM-1124-82	3003922844		103		SAN JUAN 29-4 UNIT #24	UNDESIGNATED -GALLUP	23.0	NORTHWEST PIPELIN
-BCO INC				RECEIVED:	11/19/82	JA: NM 4			
8310273	NM 1139-82	3003970068		103		DUNN #10	LYBROOK GALLUP	80.0	EL PASO NATURAL G
8310285	NM-1082-82	3003970068		103		DUNN #10	UNDESIGNATED GRANEROS	25.0	EL PASO NATURAL G
8310221	NM-1004-82-A	3003970067		103		DUNN #9	LYBROOK GALLUP	55.0	EL PASO NATURAL G
8310222	NM-1004-82-B	3003970067		103		DUNN #9	UNDESIGNATED GRANEROS	10.0	EL PASO NATURAL G
-CHACE OIL COMPANY INC				RECEIVED:	11/19/82	JA: NM 4			
8310226	NM-1026-82	3003922960		103		JICARILLA 70-15	S LINDRITH GALLUP DAK	36.0	EL PASO NATURAL G
8310225	NM-1025-82	3003922956		103		JICARILLA 71-7	S LINDRITH GALLUP DAK	36.0	EL PASO NATURAL G
-CONSOLIDATED OIL & GAS INC				RECEIVED:	11/19/82	JA: NM 4			
8310248	NM-0963-82	3004524387		108		SOUTHERN UNION #2-E	BASIN DAKOTA	19.0	SOUTHERN UNION GA
-DEPCO INC				RECEIVED:	11/19/82	JA: NM 4			
8310232	NM-1019-82	3004524966		103		FEDERAL 32 #44	WEST KUTZ PICTURED CL	21.9	GAS CO OF NEW MEX
8310280	NM1085-82102	3000500000		102-2		VANCE FEDERAL A #1	UND ABO	46.0	
-DUGAN PRODUCTION CORP				RECEIVED:	11/19/82	JA: NM 4			
8310247	NM 0961-82	3004524222		103		LA LEE ANN #3	WAW FRUITLAND PICTURE	10.0	EL PASO NATURAL G
8310227	NM-1027-82	3004525400		103		PET INC #16	OJO PICTURED CLIFFS	0.1	NORTHWEST PIPELIN
8310276	NM-1086-82	3004522689		103		REX #3 WELL	WAW FRUITLAND - PICTU	30.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310262	NM-1164-82	3004500000		108		BLANCO #15 MV & PC	BLANCO - MESA VERDE S	17.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310260	NM-1167-82	3003920758		108		CANYON LARGO UNIT #208	BALLARD - PICTURED CL	19.0	EL PASO NATURAL G
8310213	NM-0703-82	3003920783		108		CANYON LARGO UNIT #230	SOUTH BLANCO - PICTUR	20.0	EL PASO NATURAL G
8310257	NM-1174-82	3004506724		108		DAY B #5	BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
8310261	NM-1170-82	3003906001		108		JICARILLA E #4	SOUTH BLANCO PICTURED	17.0	EL PASO NATURAL G
8310249	NM-1179-82	3003906409		108		JICARILLA F #8	SOUTH BLANCO - PICTUR	21.0	EL PASO NATURAL G
8310255	NM-1171-82	3003906416		108		JICARILLA J #4	SOUTH BLANCO - PICTUR	19.0	EL PASO NATURAL G
8310259	NM-1166-82	3004320110		108		JICARILLA 183 #6	BALLARD - PICTURED CL	15.0	EL PASO NATURAL G
8310268	NM-1161-82	3002500000		108		JUSTIS BC FEDERAL COM #3	JUSTIS - GLORIETTA	15.0	EL PASO NATURAL G
8310254	NM-1176-82	3004505604		108		MCMANUS #9	BALLARD - PICTURED CL	19.0	EL PASO NATURAL G
8310253	NM-1175-82	3004505693		108		NAW-DI-DES-WOOD #1	BALLARD - PICTURED CL	22.0	EL PASO NATURAL G
8310256	NM-1172-82	3004505505		108		QUITZAU #6	BALLARD - PICTURED CL	21.0	EL PASO NATURAL G
8310269	NM-1162-82	3004508643		108		RIDDLE A #5	BLANCO - PICTURED CLI	21.0	EL PASO NATURAL G
8310267	NM-1160-82	3003906970		108		RINCON UNIT #115 PC & MV	SOUTH BLANCO-PICTURED	19.0	EL PASO NATURAL G
8310251	NM-1177-82	3004505460		108		SHEETS C #2	BALLARD - PICTURED CL	15.0	EL PASO NATURAL G
8310252	NM-1178-82	3004505600		108		WHAN JONES #1	BALLARD - PICTURED CL	19.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:		11/19/82 JA: NM 4			
8310231	NM-1018-82	3001524131		103		RYAN FEDERAL #2	UNDESIGNATED	2.0	
-GETTY OIL COMPANY				RECEIVED:		11/19/82 JA: NM 4			
8310212	81-2017-NM	3003905706		108		JICARILLA "B" #4	OTERO GALLUP	0.0	EL PASO NATURAL G
8310272	NM 1137-82	3003922841		103		JICARILLA "C" #30	OTERO-GALLUP	17.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:		11/19/82 JA: NM 4			
8310223	NM-0995-82	3002522534		108		C E LAMUNYON #35	TEAGUE BLINEBRY	9.0	EL PASO NATURAL G
8310274	NM-1129-82	3002522838		108		C E LAMUNYON #43	TEAGUE BLINEBRY	6.2	EL PASO NATURAL G
8310224	NM-1024-82	3002522432		108		M K STEWART #2	TEAGUE BLINEBRY	3.5	EL PASO NATURAL G
8310219	NM-1029-82	3002522500		108		M K STEWART #4	TEAGUE BLINEBRY	3.2	EL PASO NATURAL G
8310277	NM-1087-82	3001522480		108		PACHECO FEDERAL #2	ANGELL RANCH MORROW	11.1	EL PASO NATURAL G
-HANSON OIL CORPORATION				RECEIVED:		11/19/82 JA: NM 4			
8310245	NM 0964-82	3001523697		103		GINSBERG FEDERAL #17	SHUGART ; NE1/4NE1/4	3.0	PHILLIPS PETROLEU
-KENAI OIL AND GAS INC				RECEIVED:		11/19/82 JA: NM 4			
8310241	NM-1006-82	3004525117		103		FEDERAL #35-43	LYBROOK-GALLUP	17.5	GAS CO OF NEW MEX
-KIMBELL OIL COMPANY				RECEIVED:		11/19/82 JA: NM 4			
8310250	NM 1252-82	3003922318		107-TF		FEDERAL COM A-4	BALLARD PICTURED CLIF	300.0	EL PASO NATURAL G
-LADD PETROLEUM CORPORATION				RECEIVED:		11/19/82 JA: NM 4			
8310220	NM-1000-82	3004510611		108		BARKER DOME GAS COMMUNITY #1	BASIN DAKOTA	14.5	SOUTHERN UNION GA
-MERRION OIL & GAS CORP				RECEIVED:		11/19/82 JA: NM 4			
8310281	NM 1127-82	3003922951		103		GONZALES COM #1	DEVILS FORK GALLUP	102.0	EL PASO NATURAL G
8310265	NM 1125-82-A	3004525376		103		WARITO #1	DUFERS POINT - GALLUP	84.0	NORTHWEST PIPELIN
8310266	NM1125821038	3004525376		103		WARITO #1	DUFERS POINT	84.0	NORTHWEST PIPELIN
-MESA PETROLEUM CO				RECEIVED:		11/19/82 JA: NM 4			
8310243	NM-0967-82	3004525294		103		SOUTH BLANCO FEDERAL 26 #3	LYBROOK-GALLUP EXTENS	22.0	GAS CO OF NEW MEX
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:		11/19/82 JA: NM 4			
8310239	NM-0991-82	3003922879		103		JICARILLA E #7	BLANCO MESAVERDE GAS	152.2	NORTHWEST PIPELIN
8310275	NM-1133-82	3003921484		108		JICARILLA F #2A	BLANCO MESAVERDE GAS	17.6	NORTHWEST PIPELIN
-NORMAN L GILBREATH				RECEIVED:		11/19/82 JA: NM 4			
8310214	NM-1776-81	3004500000		108		MCILROY #1 SLC #93-374-60518	SAN JUAN BASIN	18.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:		11/19/82 JA: NM 4			
8310289	NM-1058-82	3003906897		108		JICARILLA 92 #2	BLANCO	12.0	NORTHWEST PIPELIN
8310290	NM-1068-82	3003921397		108		ROSA 62	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8310203	NM 0956-82-A	3004525080		103		SAN JUAN 32-7 #41A MV	BLANCO MESAVERDE	121.1	NORTHWEST PIPELIN
8310202	NM 0956-82-B	3004525080		103		SAN JUAN 32-7 #41A PC	SO LOS PINOS PICTURED	1.8	NORTHWEST PIPELIN
8310198	NM 0958-82-A	3004525207		103		SAN JUAN 32-7 COM 79 MV	BLANCO MESAVERDE	164.3	NORTHWEST PIPELIN
8310197	NM 0958-82-B	3004525207		103		SAN JUAN 32-7 COM 79 PC	UNDESIGNATED PICTURED	12.9	NORTHWEST PIPELIN
8310196	NM 1994-81	3004511414		108		SAN JUAN 32-8 #4	BLANCO MESAVERDE	5.0	NORTHWEST PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310201	NM 0957-82	3004525130		103		SAN JUAN 32-8 #47	BLANCO MESAVERDE	122.5	NORTHWEST PIPELIN
-PETROLEUM CORP OF DELAWARE				RECEIVED:	11/19/82	JA: NM 4			
8310209	NM 0852-82 B	3001523979		103		SUPERIOR FEDERAL #6 (MORROW)	EAST BURTON FLAT (MOR	730.0	EL PASO NATURAL G
8310210	NM 0852-82-A	3001523979		103		SUPERIOR FEDERAL #6 (STRAWN)	EAST BURTON FLAT (STR	547.5	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310208	NM 0858-82	3000520847		103		DAVIS N #5	CHAVEROO SAN ANDRES	0.0	
-ROBERT L BAYLESS				RECEIVED:	11/19/82	JA: NM 4			
8310258	NM-1126-82	3003922907		103		AXI "H" #16	BALLARD PIC CLIFFS	78.0	GAS CO OF NEW MEX
8310240	NM-0992-82	3004320634		103		AXI "P" #5	BALLARD PICTURED CLIF	15.0	GAS CO OF NEW MEX
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310205	NM 0757-82-B	3003922356		103		JICARILLA "A" #13E	BASIN	828.0	GAS CO OF NEW MEX
8310206	NM 0757-82-A	3003922356		103		JICARILLA "A" #13E	BLANCO	313.2	GAS CO OF NEW MEX
-SOUTHLAND ROYALTY CO				RECEIVED:	11/19/82	JA: NM 4			
8310278	NM-1116-82	3004525363		103		CAIN #23	BLOOMFIELD	189.0	SOUTHERN UNION GA
8310207	NM-0907-82	3001523689		103		DALE H PARKE "D" #2	GRAYBURG-JACKSON	5.0	CONTINENTAL OIL C
8310217	NM-1031-82	3004525361		103		FRONTIER "C" #1-E	BASIN	23.0	EL PASO NATURAL G
8310218	NM-1028-82	3004525331		103		GRENIER #15-E	BASIN	115.0	SOUTHERN UNION GA
8310270	NM 1135-82-A	3004525364		103		HUGHES #3	KUTZ	80.0	SOUTHERN UNION GA
8310271	NM 1135-82-B	3004525364		103		HUGHES #3	BLOOMFIELD	70.0	SOUTHERN UNION GA
8310215	NM-1030-82-A	3003922818		103		JICARILLA 101 #7-M	BLANCO	135.0	GAS CO OF NEW MEX
8310216	NM-1030-82-B	3003922818		103		JICARILLA 101 #7-M	BASIN	25.0	GAS CO OF NEW MEX
8310263	NM-1117-82	3004525362		103		MCCLANAHAN #21	BLOOMFIELD	183.0	SOUTHERN UNION GA
-TENNECO OIL COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310233	NM-1021-82A	3004523362		103		FLORANCE 111	BLANCO PICTURED CLIFF	500.0	EL PASO NATURAL G
8310228	NM-1021-82-B	3004523362		103		FLORANCE 111	BASIN DAKOTA	500.0	EL PASO NATURAL G
8310244	NM-0973-82	3004524898		103		HUBBARD COM #2	BASIN DAKOTA	500.0	EL PASO NATURAL G
8310229	NM-1022-82	3004525193		103		HUGHES A 4E	BASIN DAKOTA	500.0	EL PASO NATURAL G
8310230	NM-1023-82	3004525248		103		WILCH 4E	BASIN DAKOTA	500.0	EL PASO NATURAL G
-TXO PRODUCTION CORP				RECEIVED:	11/19/82	JA: NM 4			
8310242	NM-0983-82	3001522409		103		KEOHANE FEDERAL COM #1	UNDESIGNATED ATOKA	300.0	COLUMBIA GAS TRAN
-YATES PETROLEUM CORPORATION				RECEIVED:	11/19/82	JA: NM 4			
8310236	NM-1014-82	3001524101		103		FEDERALES "BO" COM #1C	EAST EAGLE CREEK ATOK	0.0	TRANSWESTERN PIPE
8310200	NM 0947-82	3001523989		103		MADDOX "QU" FEDERAL #1	ANTELOPE SINK MORROW	0.0	TRANSWESTERN PIPE
8310286	NM-1074-82	3001524028		103		NO TURKEY TRACK MU FED COM #2	UND MORROW	0.0	TRANSWESTERN PIPE
8310235	NM-1013-82	3001524095		103		OAKASON "NV" FEDERAL #3	UND MORROW	0.0	TRANSWESTERN PIPE
8310279	NM-1083-82	3000520865		103		UNION "SI" FEDERAL #3	TOMAHAWK SAN ANDRES	0.0	CITIES SERVICE CO
-B J HOWELL				RECEIVED:	11/19/82	JA: OK 4			
8310199	OKA-0959-82	3506330041		108		SEARS #1	SHADY GROVE	18.1	HILL TOP INVESTME
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
**********									
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	11/22/82	JA: MT 5			
8310339	M140-2	2507121684		108		HICKMAN 1-26	SWANSON CREEK	21.0	MONTANA-DAKOTA UT
-MIDLANDS GAS CORPORATION				RECEIVED:	11/22/82	JA: MT 5			
8310336	M-619-1	2507121339		108		FEDERAL #1 1132	WILDCAT	9.0	KANSAS-NEBRASKA N
8310337	M620-1	2507121388		108		2631-1 263331	BOWDOIN	4.0	KANSAS-NEBRASKA N
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/22/82	JA: ND 5			
8310338	ND36-2	3305301357		102-4		ROUGHRIDER FEDERAL 14-34	ROUGHRIDER	0.0	KOCH OIL CO
-ALTUS EXPLORATION CO				RECEIVED:	11/22/82	JA: WY 5			
8310345	W168-2	4904320415		102-2		ALTUS-GOV'T #22-1 HILAND	SOUTH FRISBY	3.5	MONTANA DAKOTA UT
8310346	W169-2	4904320418		102-2		ALTUS-GOV'T #23-1 HILAND	SOUTH FRISBY	12.8	MONTANA DAKOTA UT
8310347	W170-2	4904320436		102-2		ALTUS-GOV'T #23-3 HILAND	SOUTH FRISBY	29.2	MONTANA DAKOTA UT
8310348	W171-2	4904320454		102-2		ALTUS-GOV'T #23-4 HILAND	SOUTH FRISBY	22.6	MONTANA DAKOTA UT

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310349	W172-2	4904320467		102-2		ALTUS-GOV'T #23-5 HILAND	SOUTH FRISBY	35.5	MONTANA DAKOTA UT
8310350	W173-2	4904320491		102-2		ALTUS-GOV'T #26-1 HIWAY	SOUTH FRISBY	3.6	MONTANA DAKOTA UT
8310351	W174-2	4904320495		102-2		ALTUS-GOV'T #26-2 BADLANDS	SOUTH FRISBY	7.3	MONTANA DAKOTA UT
8310352	W175-2	4904320510		102-2		ALTUS-GOV'T #26-3 BADLANDS	SOUTH FRISBY	8.8	MONTANA DAKOTA UT
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/22/82	JA: WY 5			
8310342	W164-2	4903520592		103		BPMV 1-84	MESAVERDE	0.0	NORTHWEST PIPELIN
8310341	W163-2	4903520632		103		S 33-28	JOHNSON RIDGE	0.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	11/22/82	JA: WY 5			
8310343	W165-2	4901920671		102-2		REINAUER FEDERAL #1-26	HOLLER DRAW	26.0	PHILLIPS PETROLEU
8310344	W166-2	4901920605		102-2		REINAUER FEDERAL #1-34	HOLLER DRAW	25.0	PHILLIPS PETROLEU
-WEXPRO COMPANY				RECEIVED:	11/22/82	JA: WY 5			
8310340	W162-2	4903520589		102-2		THE MESA UNIT WELL #1	PINEDALE	225.0	MOUNTAIN FUEL RES

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each MGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old BCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seems
107–DV: Devonian shale
107–PR: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34506 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–171–000]

Lockhart Power Co.; Filing

December 14, 1982.

Take notice that on November 24, 1982, Lockhart Power Company (Lockhart) tendered for filing a proposed reduced interim rate pursuant to Duke Power Company's (Duke) proposed reduced interim rate, filed on November 8, 1982, pending resolution of Duke's proceeding in Docket No. ER82–732–000.

Lockhart requests that this reduced rate be made effective, subject to refund, coincident with the November 2, 1982, effective date of Duke's proposed reduction in Docket No. ER82–732–000.

Lockhart requests a waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34609 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–729–000]

Pacific Gas and Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Untimely Intervention, Granting Motions for Summary Disposition, Denying Motions, and Establishing Hearing Procedures

Issued: December 14, 1982.

On August 17, 1982, as completed on October 15, 1982,[1] Pacific Gas & Electric Company (PG&E) tendered for filing proposed changes in its rates and charges for wholesale electric transmission service for customers receiving Central Valley Project Power from the U.S. Department of Energy's Western Area Power Administration (WAPA).[2] PG&E proposes to increase revenues for transmission and distribution of WAPA power in two steps by approximately $7.5 million (90%), based on a test period ending December 31, 1983. The Phase I rates would increase revenues by about $5.5 million, while the Phase II rates would increase revenues by an additional $2 million. PG&E requests that the original August 17, 1982 filing date be reinstated along with the originally proposed October 18 and October 19 effective dates for the Phase I and Phase II increases, respectively. Alternatively, PG&E requests waiver of the notice requirements in order to permit the rates to become effective as of October 18, 1982, and October 19, 1982, respectively.

Notice of PG&E's filing was published in the **Federal Register** with comments due on or before September 8, 1982. On September 7, 1982, WAPA filed a motion to intervene. WAPA states that the Central Valley Project will be directly affected by PG&E's proposed increase. WAPA contends that the proposed rates appear to be inconsistent with the terms of several contracts between PG&E and WAPA. Specifically, WAPA points out that Article 32 of one of the contracts (948A) provides for review and adjustment of rates, as appropriate, only at five year intervals. PG&E, as part of its filing, has proposed a formula rate adjustment mechanism which would revise transmission and distribution rates on a yearly basis. WAPA claims that this mechanism appears to be inconsistent with the five year fixed rate provision contained in its contract with PG&E. Additionally, WAPA states that the demand allocation used by PG&E to develop its proposed rates may not have properly taken into account certain WAPA loads which are currently served under contractually fixed rates. WAPA also claims that PG&E's proposed rates may not properly account for credits due to WAPA for the contribution which CVP transmission lines make to the integrated operation of the CVP–PG&E integrated system. Finally, WAPA states that the filing does not fully support PG&E's requested rate of return.

On September 8, 1982, the Northern California Power Agency and its members (collectively, "NCPA") and the Sacramento Municipal Utility District ("SMUD") filed a protest and motions to reject, to intervene, and for summary disposition. NCPA and SMUD request a hearing and a five month suspension of PG&E's rate request. NCPA and SMUD state that they are customers of WAPA under WAPA's Central Valley Project contract with PG&E. Like WAPA, NCPA and SMUD claim that PG&E's rate filing is inconsistent with contractual provisions which provide that rates and charges may only be adjusted at five year intervals. These intervenors also claim that the terms of the contract would preclude PG&E's use of a future test period and would also require that PG&E include a 5% credit in its cost of service to reflect benefits that PG&E derives through use of WAPA transmission facilities. NCPA and SMUD further request that PG&E's proposed inclusion of non-cash items in cash working capital be summarily rejected and that the cost of service inclusion of PG&E's contributions to the

[1] On September 10, 1982, PG&E's original submittal was found to be deficient. PG&E, on October 15, 1982, completed its filing by submitting revised cost of service statements consistent with the requirements of section 35.25 of the Commission's regulations and Commission Order Nos. 144 and 144–A.

[2] *See* Attachment A for customers and rate schedule designations.

Electric Power Research Institute (EPRI) be summarily rejected. They also move to reject PG&E's filing and, in the alternative, seek summary disposition to the extent that PG&E's proposed increase fails to provide a credit to PG&E's cost of service to reflect the benefits to PG&E of WAPA transmission facilities within PG&E's service area.

Additionally, NCPA and SMUD request that both steps of the proposed increase be suspended for five months from the requested effective dates based on a number of items included in PG&E's filing including an alleged excessive return on equity, overstated demand projections, overstated expense projections, and PG&E's failure to synchronize interest expenses for tax purposes. NCPA and SMUD also contend that PG&E's proposal to file a two-phase rate increase is inconsistent with the Federal Power Act and amounts to an attempt to circumvent the Commission's suspension authority and obligations. Petitioners therefore request that the phased rate request be rejected.

On September 14, 1982, Arvin-Edison Water Storage District, a customer taking Central Valley Power from WAPA ("Ariven-Edison"), filed a protest, motion to reject, and motion to intervene out of time. Arvin-Edison states that it incorporates and adopts the arguments raised by NCPA and SMUD in their motion to intervene.

On September 14, 1982, the United States Department of Energy (DOE) filed an untimely intervention. DOE states that the proposed increase would raise the rates for four federal executive agencies which are ultimate customers of PG&E power. DOE states that it has requested a Delegation of Authority from the General Services Administration (GSA) to represent the executive agencies. According to DOE, such request is pending, but GSA has indicated that such request should be granted.

On September 20, 1982, PG&E filed separate responses to the motions to intervene of WAPA, and NCPA and SMUD, respectively. PG&E states that it does not oppose WAPA's motion to intervene. With respect to NCPA and SMUD, PG&E takes issue with the requests for summary disposition based upon claims of non-compliance with Article 32 of the contract and states that, at a minimum, these are issues that should be set for hearing.[3]

[3] PG&E does not oppose intervention by NCPA and its member cities, provided that the individual cities participate through NCPA, as their representative. However, PG&E asserts that the cities will not be active participants in view of NCPA's involvement in a representative capacity. Thus, PG&E asks that the member cities be denied intervenor status or that a restricted service list be required under Rule 2010(d). Given their individual interests in the outcome of this proceeding, we shall not deny intervenor status. Nonetheless, there may be merit to the contention that a restricted service list would avoid unnecessary expense and improve administrative efficiency. We believe that the presiding judge will be in the best position to make such a determination after having considered the scope of the proceeding, the interests of all parties, and any responsive argument by NCPA or the cities. We shall therefore leave this decision to the discretion of the presiding judge.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene and the notice of intervention serve to make WAPA, NCPA and its members, SMUD, and DOE parties to this proceeding. We find that Arvin-Edison may have a significant economic interest in the outcome of this proceeding. Given the early stage of this proceeding and the fact that intervention by Arvin-Edison should not prejudice other parties or delay the proceedings, we shall grant Arvin-Edison's untimely request for intervention.

Article 32 of the existing agreement states in pertinent part that:

> 32. Rates and charges under this contract shall be fair and equitable and shall, except those provided in Articles 22(b)(1) and 22(c)(2)(i), together with service charges, be jointly reviewed, and adjusted as appropriate, on April 1, 1971, and every five years therafter. * * * Such review shall take into account substantial savings accruing to either party and applicable costs of construction and production, including changes therein and appropriate service charges, during the preceding five years. If the parties are unable to agree on a change of any rate or charge, the matter shall be submitted to the Federal Power Commission for final decision.

The intervenors contend that PG&E's use of a calendar 1983 test period should be rejected inasmuch as the above contractural provision requires that rates be developed based upon experiences occuring over the preceding five year period. The intervenors also contend that PG&E's proposal to implement a formula which would adjust the WAPA transmission rate on an annual basis violates the contractual provision for rate review and adjustment at five year intervals. PG&E, in response to these claims, argues that the above provision does not require that rates be set solely on the basis of the preceding five years' experience and that in any event, this language only applies to rates negotiated by the parties. In the event that the parties are unable to agree on a rate, PG&E argues that the Commission has the discretion to develop appropriate rates without regard to the preceding five years' experience. Additionally, PG&E asserts that its proposed annual adjustment mechanism is appropriate under the contract.

Upon review, the Commission finds that the WAPA/PG&E contract does not preclude PG&E's use of a calendar 1983 future test period in order to arrive at an appropriate transmission rate. While the terms of the agreement require that PG&E's rates shall take into account any substantial savings accruing to either party during the preceding five years, PG&E is correct in its assertion that the rates proposed for the next five year interval do not have to be based solely upon PG&E's experience during that period. Whether the rates properly take into account the parties' experience over the prior five year period and are therefore in compliance with the terms of the contract is an issue to be resolved during the course of an evidentiary hearing. We shall therefore deny the motions for rejection or summary disposition of this issue. With respect to PG&E's proposed annual rate mechanism, the Commission would note that the formula has not been expressly included as part of PG&E's rate schedules or tariffs. In fact, PG&E specifically points out that the adjustment mechanism is severable from the rest of PG&E's proposed rates. The Commission finds that the proposed formula mechanism is inconsistent with the terms of the contract which require that rates shall be reviewed and adjusted, as appropriate, only at five year intervals. This provision would necessarily preclude any rate adjustments on an annual basis as proposed by PG&E. Accordingly, the Commission will summarily reject PG&E's proposed formula rate mechanism.

With respect to the intervenors' claim that PG&E has failed to credit its cost of service to reflect the intangible benefits of extra reliability which PG&E may realize from transmission facilities owned by CVP, the Commission notes that in the instant docket, PG&E has used a transmission cost allocation methodology different from that previously used by PG&E and addressed by the Commission in Opinion No. 143, Docket No. ER76-532-000, 20 FERC ¶ 61,190 (August 16, 1982). Under the methodology utilized in the instant docket, PG&E would give credit to WAPA by declining to allocate generation tie expenses as well as certain system interconnection and exclusive use transmission expenses. This change in PG&E's allocation

technique therefore appears to be providing some credit to CVP and, in light of this change, PG&E's elimination of the 5 percent credit previously adopted by the Commission may be justified. However, the issue of credits and transmission cost allocations are questions which should appropriately be addressed during the course of an evidentiary proceeding. We shall therefore deny the intervenors' request for summary disposition as to this issue.

The Commission will also deny the intervenors' request for rejection based on PG&E's request for a phased increase. Contrary to the petitioners' assertion, nothing in the Federal Power Act or the Commission's regulations prohibits PG&E from filing a two-step rate increase, and we have previously sanctioned such filings. *See, e.g., Jersey Central Power & Light Co.*, 19 FERC ¶ 61,208 (May 28, 1982); *Cincinnati Gas & Electric Co.*, 20 FERC ¶ 61,148 (August 4, 1982). As stated by the Commission in the *Jersey Central* case, "so long as the two phases are independently evaluated for purposes of determining appropriate suspension periods, neither the company nor its customers will be subjected to irreparable harm." 19 FERC at 61,403. Because the submittal, as completed, substantially complies with the filing requirements and no other basis for rejection has been shown, we decline to reject PG&E's filing.[4]

The Commission will grant the request for summary disposition with respect to PG&E's proposed inclusion of non-cash items in the cash working capital allowance. In a recently issued opinion regarding PG&E's wholesale rates, we held that non-cash items are to be excluded from the company's computation of its cash working capital allowance. Opinion No. 147, 20 FERC § 61,340 (September 22, 1982). In light of the Commission's recent pronouncement on this subject, summary disposition is warranted. However, because of the minimal cost of service impact of this item, we shall not require the company to refile its rates at this time.

The Commission will also order summary disposition as to PG&E's failure to synchronize test year interest expenses used in the income tax calculation with the interest portion of the claimed rate of return. Commission policy and practice have consistently required the computation of the long-term debt component of the interest expense tax deduction as the product of a utility's allocated rate base and the weighted cost of long-term debt. *See, e.g.,,Gulf States Utilities Company*, 20 FERC ¶ 61,039 (July 9, 1982); Opinion No. 133, 17 FERC ¶ 61,121 (1981). Again, however, we shall not require PG&E to immediately refile its rates since the cost of service impact of this adjustment appears to be minimal.

NCPA and SMUD also request summary disposition with respect to the company's allocation of EPRI expenses to its wholesale customers. However, in its filing of October 15, 1982, PG&E excluded the allocation of EPRI contributions to WAPA. As a result of PG&E's voluntary withdrawal of its proposed inclusion of EPRI contributions, this issue is now moot and need not be addressed in this order.

With respect to all other issues raised by the parties, we believe that these matters present questions of law or fact most appropriately resolved on the basis of an evidentiary record to be developed at hearing. Therefore, summary disposition of these issues will be denied.

Our preliminary review indicates that PG&E's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

We find that PG&E has failed to show good cause for waiver of the notice requirements or for having the Commission assume a filing date other than the date on which PG&E filing was in substantial compliance with the Commission's regulations. The Commission will therefore deny these requests.

We recently explained the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (February 26, 1982). As noted there, where our preliminary review suggests that increased rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we shall suspend the rates for one day. Where, however, preliminary examination indicates that the rates may be substantially excessive, we shall suspend for the maximum period. Our review indicates that the Phase I rates may not produce substantially excessive revenues, but that the Phase II rates may produce substantially excessive revenues. Accordingly, we shall suspend the Phase I rates for one day from 60 days after completion of filing, to become effective on December 16, 1982, and the Phase II rates for five months to become effective on May 16, 1983, subject to refund.

Finally, we note, for purposes of the Economic Recovery Tax Act of 1981, that PG&E has reflected a normalization method of accounting and the normalization of investment tax credits in accordance with the procedures required by Section 168(e) and 46(f) of the Internal Revenue Code adopted as Part of ERTA. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that the cost of service correctly reflects the effects of normalization, and that PG&E's fling satisfies the requirements of ERTA.

The Commission orders

(A) NCPA's and SMUD's motions for summary disposition with respect to (1) PG&E's proposed annual adjustment mechanism, (2) its failure to properly synchronize test year interest expense deductions, and (3) the inclusion of non-cash items in the cash working capital allowance are hereby granted as set forth in the body of this order. These determinations shall be reflected in any compliance cost of service and rates at the conclusion of this proceeding.

(B) All other motions for rejection or summary disposition are hereby denied.

(C) PG&E's request for waiver of the notice requirements is hereby denied.

(D) PG&E's proposed Phase I and Phase II rates for transmission service are hereby accepted for filing and are suspended as follows: the Phase I rates are suspended for one day to become effective on December 16, 1982, subject to refund, and the Phase II rates are suspended for five months to become effective on May 16, 1983, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of PG&E's rates.

(F) Arvin-Edison is hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure.

(G) The Commission staff shall serve top sheets in this proceeding on or before December 17, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall

[4] *See Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F. 2d 1341 (D.C Cir. 1971).

convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(J) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Pacific Gas and Electric Company

Rate Schedule Designations (Docket No. ER82–739–000)

Filed: October 15, 1982.

(1) Second Revised Sheet Nos. 60 and 61 under FPC Electric Tariff Original Volume No. 4 (Supersede First Revised Sheet Nos. 60 and 61).

(2) Second Revised Sheet Nos. 60 and 61 under FPC Electric Tariff Original Volume No. 4 (Supersede Second Revised Sheet Nos. 60 and 61).

(3) Supplement No. 1 to Rate Schedule FERC No. 63.

(4) Supplement No. 2 to Rate Schedule FERC No. 63 (Supersedes Supplement No. 1).

[FR Doc. 82-34610 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83–174–000]

Pennsylvania Power & Light Co.; Filing

December 14, 1982.

Take notice that Pennsylvania Power & Light Company (PP&L) on December 3, 1982, tendered for filing as a rate schedule an executed agreement dated as of November 24, 1982 between PP&L and Consolidated Edison Company of New York, Inc. ("Con Edison"). The proposed rate schedule provides for the sale of interruptible power and energy by PP&L to Con Edison.

The rate schedule provides for a maximum energy reservation charge rate of $24.70 per megawatt per hour and an energy charge rate based upon the incremental cost of providing the energy.

PP&L requests waiver of the Notice requirements of Section 205 of the Federal Power Act and Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective December 3, 1982.

PP&L states that a copy of its filing was served on Con Edison and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34611 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4186–001]

Stowe Mills, Inc., Exemption From Licensing

December 17, 1982.

A notice of exemption from licensing of a small hydroelectric project known as McAdenville Dam, Project No. 4186, was filed on November 17, 1982, by Stowe Mills, Inc. The proposed hydroelectric project would have an installed capacity of 1,040 kW and would be located on the South Fork Catawba River, at the McAdenville Dam, in Gaston County, North Carolina.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of December 17, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation

[FR Doc. 82-34612 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82–129–001]

Ozark Gas Transmission System; Petition To Amend

December 17, 1982.

Take notice that on December 13 and 15, 1982, Ozark Gas Transmission System (Ozark), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82–129–001 a petition to amend the order issued March 30, 1982, in Docket No. CP82–129–000, pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) to authorize: (a) An increase in the single project cost limit for the calendar year 1982 up to $1,000,000 and (b) increases in single project and annual cost limitations up to $2,500,000 and $10,000,000, respectively, for calendar year 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Ozark was authorized to construct and operate gas supply facilities at an annualized cost limitation of three percent of its Account No. 101, or approximately $3,900,000 and a single project cost limitation of approximately $975,000. For 1982, during which its certificate was effective for three-fourths of the year, Ozark's pro-rated limits were approximately $2,925,000 and $731,250, respectively.

Ozark states that as a newly-constructed system, its 1982 budget limit was committed to projects planned for construction during the April 1 to September 16, 1982, period. It exceeded the single-project limit for 1982 by inadvertently computing the single-project limit on the basis of the full annualized limit, instead of the pro-rated amount. In order to attach new gas supply projects, including those that might otherwise have been installed in the last quarter of 1982, Ozark seeks the higher limits for 1983. It projects expenditures of not less than the requested $10,000,000 during the first eight months of 1983. Ozark asserts that producers continue to be very active in the Arkoma Basin supply area, and it is aware of some 63 supply projects available for possible attachment to its system.

Any person desiring to be heard or to make any protest with reference to this application should on or before December 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in

any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34668 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-009]

Pennzoil Co.; First Amendment To Application for Clarification or Abandonment Authorization

December 17, 1982.

Take notice that on December 16, 1982, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001 filed in Docket No. G-7004-009 a First Amendment to its application for clarification or abandonment authorization filed October 26, 1982 in Docket No. G-7004-006. Pursuant to Sections 16 and 7(b) of the Natural Gas Act and the Commission's regulations thereunder, Pennzoil requests the Commission to grant clarification of its Order dated November 24, 1980 in Docket No. G-7004 as to the need for abandonment authority, or abandonment authorization for as much gas as is required to allow sales of gas to 17 specified additional applicants for residential service in West Virginia pursuant to West Virginia law. Pennzoil also renews each of the requests set forth in its original application in Docket No. G-7004-006.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the 17 current Pennzoil applicants in West Virginia who are depending on Pennzoil for their gas supply needs. Service to these 17 applicants would be provided, as permitted under the contract, from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Consolidated has previously indicated in connection with Pennzoil's original application in Docket No. G-7004-006 that it has no objection to an order of the Commission which would authorize Pennzoil to use gas to serve West Virginia consumers as required by West Virginia law.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before December 23, 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 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G-7004-006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G-7004-009.

Take further notice that, pursuant to the authority contained in and subject to the 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 on the amendment to the original application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34669 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 1G2452/T396; PH-FRL 2271-8]

Amitraz; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the insecticide amitraz and its metabolites in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of July 8, 1981 (46 FR 35339) stating that temporary tolerances had been established for the combined residues of the insecticide amitraz and its metabolites containing the 2,4,-dimethylaniline moiety (calculated as the parent compound) in or on the raw agricultural commodities meat, fat, and meat byproducts of cattle at 0.05 part per million (ppM); and milk fat at 0.5 ppm. These tolerances were established in response to pesticide petition (PP 1G2452), submitted by BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2867, Wilmington, DE 19805. The company has requested a 1-year renewal of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 43142-EUP-2 which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. BFC Chemicals, Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire October 7, 1983. Residues not in excess of the temporary tolerances in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally

applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j) 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34575 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-295A; PH-FRL 2268-3]

BASF Wyandotte Corp.; Pesticide Petition; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects a pesticide petition (PP 2F2748) proposing the establishment of a tolerance for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites in or on the raw agricultural commodity cottonseed.

ADDRESS: Written comments to: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, (703–557–1800).

SUPPLEMENTARY INFORMATION: In FR Doc. 82–28634 published in the **Federal Register** of October 20, 1982 (47 FR 46756), EPA issued a notice that announced that the BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054, had filed pesticide petition 2F2748 with the Agency proposing to amend 40 CFR Part 180 by establishing a tolerance for the combined residues of the herbicide 2-[-1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing 5-[-2-(ethylthio)propyl]-3, 5-dihydroxy-2-cyclohexen-1-one moiety, and their several thioxidation products in or on the raw agricultural commodity cottonseed at 4 parts per million (ppm).

The chemical identification of the herbicide under PP 2F2748, appearing at page 46756, third column, fifth line, was erroneously given and is corrected to read "2-[1-(ethoxyimino)butyl]-5-2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one moiety and the 5-[2-ethylthio)propyl]-3,5-dihydroxy-2-cyclohexen-1-one moiety, and their several thioxidation products".

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34152 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-302; PH-FRL 2268-5]

Certain Companies Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to the establishment and/or amendments of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF–302] and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, food, and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

A. Initial Filing

1. *PP 3F2778.* Dow Chemical Co., PO Box 1706, Midland, Mich. 48640. Proposes to amend 40 CFR 180. 342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos (*O,O*–diethyl *O*–(3,5,6–trichloro–2–pyridyl) phosphorothioate) in or on the commodities almonds at 0.05 part per million (ppm), walnuts at 0.2 ppm, and almond hulls at 12.0 ppm. The proposed analytical method for determining residues is gas chromatography using electron capture detector. (PM–12, Jay Ellenberger, 703–557 2386).

2. *PP 3F2765.* American Cyanamid, PO Box 400, Princeton, N.J. 08540. Proposes to amend 40 CFR 180.361 by establishing a tolerance for residues of the herbicide pendimethalin (*N*–(1–ethylpropyl)–3,4–dimethyl–2,6–dinitrobenzamine) in or on the commodity sugarcane at 0.05 ppm. The proposed analytical method for determining residues is gas–liquid chromatography with an electron capture detector. (PM–25, Robert Taylor, 703–557–1800).

3. *PP 3F2786.* Ciba–Geigy Corp., PO Box 18300, Greensboro, N.C. 27419. Proposes to amend 40 CFR 180.408 by establishing a tolerance for the combined residues of the fungicide metalaxyl (*N*–2,6–dimethylphenyl)–*N*–(methoxyacetyl) alanine methyl ester) and its metabolites containing the 2,6–dimethylaniline moiety, each expressed as metalaxyl in or on citrus fruit at 1.0 ppm. The proposed analytical method for determining residues is gas chromatography using an alkali flame ionization detector. (PM–21, Henry Jacoby, 703–557–1900).

4. *FAP 3H5376.* Ciba–Geigy Corp. Proposes to amend 21 CFR 193.277 by establishing a regulation permitting the combined residues of the fungicide metalaxyl and its metabolites in citrus oil at 7.0 ppm. (PM–21, Henry Jacoby, 703–557–1900).

5. *FAP 3H5376.* Ciba-Geigy Corp. Proposes to amend 21 CFR 561.273 by establishing a regulation permitting the combined residues of the fungicide metalaxyl and its metabolites in or on dried citrus pulp at 6.0 ppm and citrus

molasses at 5.0 ppm. (PM–21, Henry Jacoby, 703–557–1900).

6. *PP 3F2776.* Burst Products, Inc., 6901 West 63rd St., Overland Park, Kans. 66202. Proposes to amend 40 CFR 180.1042 by establishing an exemption from the requirements of a tolerance for the residues of the plant growth regulator aqueous extract of seaweed meal derived from *Ascophyllum nodosum* in or on the commodities alfalfa, asparagus, beans, broccoli, brussel sprouts, cabbage, cauliflower, cotton, cucumber, eggplant, lettuce, melons, okra, onions, parsley, peas, radish, sorghum (milo), sweet potatoes, spinach, and squash. (PM–25, Robert Taylor, 703–557–1800).

7. *PP 3F2779.* E. I. du Pont de Nemours and Company, Wilmington, Del. 19898. Proposes to amend 40 CFR 180.396 by establishing a tolerance for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4(1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on pasture grasses at 10.0 ppm. The proposed analytical method for determining residues in nitrogen selective gas chromatography. (PM–23, Richard Mountfort, 703–557–1830).

8. *PP 3E2780.* University of Southern Mississippi, PO Box 5024, Southern Station, Hattiesburg, Miss. 29406. Proposes to amend 40 CFR Part 180 by establishing an exemption from the requirements of a tolerance for potassium ricinoleate in fish when it results from the use of saponified castor oil as an algicide in catfish ponds. (PM–23, Richard Mountfort, 703–557–1830).

9. *FAP 3H5375.* Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, N.C. 20749. Proposes to amend 21 CFR 561.386 by establishing a regulation permitting the combined residues of the insecticide thiodicarb (dimethyl *N,N*'(thiobis (methylimino) carbonyl) oxy) bis (ethanimidothioate) and its metabolite methomyl, *N*-(methylcarbamoyl) oxy) thioacetimidate in or on the commodity sweet cannery waste at 40.0 ppm. (PM–12, Jay Ellenberger, 703–557–2386).

B. Amended Petitions

1. *PP 2F2743.* Ciba-Geigy Corp. EPA issued a notice published in the **Federal Register** of September 22, 1982 (47 FR 41854), that announced that Ciba-Geigy Corp. had submitted pesticide petition 2F2743 to the Agency proposing to amend 40 CFR 180.408 by establishing tolerances for the combined residues of the fungicide metalaxyl and its metabolites in or on the commodities pineapples and pineapple fodder at 0.1 ppm.

Ciba/Geigy Corp. has amended the petition by adding a proposed tolerance for pineapple forage at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography with alkali flame ionization detector. (PM–21, Henry Jacoby, 703–557–1900).

2. *PP 0F 2331.* Janssen R&D, Inc., 501 Geroge St., New Brunswick, N.J. 08903. EPA issued a notice published in the **Federal Register** of April 22, 1980 (45 FR 27009) that announced that Janssen R&D, Inc. had submitted pesticide petition 0F2331 to the Agency proposing to amend 40 CFR Part 180 by establishing tolerances for residues of the fungicide 1-(2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl)-1*H*-imidazole in or on citrus fruit. The petitioner subsequently amended the petition (47 FR 6091, February 10, 1982) by proposing tolerances on additional commodities.

The petitioner has submitted a second amendment to the petition by including the two metabolites alpha-(2-4-dichlorophenyl) 1*H*-imidazole-1-ethanol and 3 ((1-(2,4-dichlorophenyl-2-(1*H*-imidazole-1-yl)ethoxl))-1,2-propanediol in the expression of the tolerances and decreasing the proposed tolerances in or on fat, meat, and meat byproducts (except liver) of cattle, goats, hogs, horses, and sheep from 0.04 to 0.01 ppm; milk from 0. 04 to 0.01 ppm; and liver of cattle, goats, hogs, horses, and sheep from 0.8 to 0.5 ppm. The proposed analytical method for determining residues is gas chromatography. (PM–21, Henry Jacoby, 703–557–1900).

3. *PP 8E2100* Janssen R&D, Inc. EPA issued a notice published in the **Federal Register** of January 27, 1982 (46 FR 3876) that announced that Janssen R&D, Inc. had submitted pesticide petition 8E2100 to the Agency proposing to amend 40 CFR Part 180 by establishing a tolerance for residues of the fungicide 1-(2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl)-1*H*-imidazole and its metabolites alpha-(2-4-dichlorophenyl)1*H*-imidazole-1-ethanol and 3(1-(2,4-dichlorophenyl-2-(1*H*-imidazole-1-yl)ethoxyl))-1,2-propanediol in or on bananas (whole) at 2.0 ppm of which no more than 0.2 ppm is in the edible pulp.

Janssen R&D, Inc. has amended the petition by increasing the tolerance level to 3.0 ppm with the permissible residue in edible pulp to remain at 0.2 ppm. The proposed analytical method for determining residues is high pressure liquid chromatography with a reverse phase system using an ultraviolet detector. (PM–21, Henry Jacoby, 703–557–1900).

4. *PP 2F2698.* EPA issued a notice published in the **Federal Register** of June 30, 1982 (47 FR 28453) that announced that BFC Chemicals, Inc., 4311 Lancaster Pike, PO Box 2867, Wilmington, Del. 19805, had submitted pesticide petition 2F2698 proposing to amend 40 CFR 180.345 by establishing a tolerance for the combined residues of the herbicide ethofumesate (2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate) and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate (both calculated as the parent compound) in or on fresh grass at 10 ppm.

BFC Chemicals, Inc. has amended the petition by increasing the tolerance for fresh grass to 20 ppm and proposing tolerances for kidney of cattle, goats, horses, and sheep at 5 ppm; fat, meat, and meat byproducts (except kidney) of cattle, goats, horses, and sheep at 0.2 ppm; fat, meat, and meat byproducts of hogs at 0.05 ppm, and milk at 0.05 ppm. The proposed analytical method for determining residues is gas liquid chromatographic determination process using a flame photometric detector in the sulphur mode. (PM–23, Richard Mountfort, 703–557–1830).

5. *PP 6F1748.* E. I. du Pont de Nemours and Company. EPA issued a notice puyblished in the **Federal Register** of April 8, 1976 (41 FR 14924) that announced that E. I. du Pont de Nemours had submitted pesticide petition 6F1748 to the Agency proposing to amend 40 CFR 180.294 by establishing tolerances for the combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on certain commodities.

E. I. du Pont de Nemours has amended the petition by proposing tolerances in or on the commodities liver of cattle, goats, hogs, horses, and sheep at 4.0 ppm; milk at 1.0 ppm; the hay of barley, oats, and rye at 0.2 ppm; and hay of wheat at 15 ppm. The proposed analytical method for determining residues is cation exchange liquid chromatography. (PM–21, Henry Jacoby, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–34153 Filed 12–21–82; 8:45 am]

BILLING CODE 6560–50–M

[PF-300; PH-FRC 2270-1]

Certain Companies; Pesticide, Feed, and Food Additive Petitions

AGENCY: Environmental Protection Agency (FPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and feed and food items.

ADDRESS: Written comments may be submitted to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF-303]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00. p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, feed, and food additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and feed and food items in accordance with the Federal Food, Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

FAP 3H5373. Mobay Chemical Corp., P.O. Box 4913, Kansas City, Mo. 64120. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the nematicide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl) phenyl (1-methylethyl) phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl) phenyl (1-methylethyl) phosphoramidate in or on the commodity raisins at 0.3 part per million (ppm). (PM 21, Henry Jacoby, 703-557-1900.)

FAP 3H5373. Mobay Chemical Corp. Proposes amending 21 CFR 561.232 by establishing a regulation permitting residues of the above nematicide in or on the commodities grape pomace at 1.0 ppm and raisin waste at 3.0 ppm. (PM 21, Henry Jacoby, 703-557-1900.

PP 2F2650. EPA issued a notice published in the **Federal Register** of June 23, 1982 (FR 27126) which announced that the BASF Wyandotte Corp., 100 Cherry Hill Rd., P.O. Box 181, Parsippany, NJ 07054, had filed a pesticide petition (PP 2F2650) with the Agency. The petition proposed that 40 CFR 180.380 be amended by establishing tolerances for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its 3,5-dichloroaniline containing metabolites in or on the raw agricultural commodities peaches and cherries at 4.0 ppm and plums at 1.0 ppm

BASF amended the petition by deleting cherries at 4.0 ppm and plums at 1.0 ppm and substituting the raw agricultural commodity group stonefruit at 25 ppm. Proposed analytical method for determining residues is gas chromatography using an electron capture detector (Ni 63). (PM 21, Henry Jacoby, 703-557-1900.)

FAP 2H5349. Sandoz, Inc., Crop Protection, 480 Camino Del Rio South, San Diego, Calif. 92108. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide propetamphos [(*E*)-]-methylethyl 3-[[(ethylamino) methoxyphosphinothioyl] oxy]-2-butenoate] in or on animal feed exposed to the insecticide during treatment of animal feed handing establishments with a tolerance limitation of 0.1 ppm and 21 CFR Part 193 by permitting residues of propetamphos in or on food resulting from application of the insecticide in food handling establishments with a tolerance limitation of 0.1 ppm. (PM 16, William Miller, 703-557-2600.)

FAP 2H5367. Upjohn Co., Agricultural R&D, Kalamazoo, Mich. 49001. Proposes amending 21 CFR Part 561, by establishing a regulation permitting residues of insecticide amitraz (*N*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]-methyl]-*N*-methylmethanimidamide and *N*-(2,4-dimethylphenyl) formamide, calculated as the parent compound in or on the commodity dried apple pomace at 35.0 ppm. (PM 12, Jay Ellenberger, 703-557-2386).

PP 3F2771. Dow Chemical Comp., P.O. Box 1706, Midland, Mich. 48640. Proposes amending 40 CFR 180.144 by establishing tolerances for the combined residues of insecticide cyhexatin (tricyclohexylhydroxystannane) and its organotin metabolites (calculated as cyhexatin) in or on the raw agricultural commodity cherries at 4.0 ppm. Proposed analytical method for determining residues is one in which the organic tin is oxidized to inorganic tin and measured colorimetrically with catechol violet. (PM 12, Jay Ellenberger, 703-557-2386).

PP 3F2773. Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, N.C. 27709. Proposes amending 40 CFR 180.407 by establishing tolerances for the combined residues of thiodicarb (dimethyl *N*,*N*',-(thiobis((methylimino) carbonyloxy)) bis (ethanimidothioate)) and its metabolite (methomyl *N*-((methylcarbamoyl)oxy) thioacetinidate in or on the raw agricultural commodities field corn grain at 0.05 ppm, sweet corn kernels (plus cob) at 1.5 ppm, filed corn fodder and forage at 60.0 ppm. Proposed analytical method for determining residues is liquid chromatography. (PM 12, Jay Ellenberger, 703-557-2386).

FAP 3H5372. Union Carbide Corp., Proposes amending 21 CFR 561.386 by establishing a regulation permitting the combined residues of the insecticide thiodicarb in or on the commodity sweet corn cannery waste at 40.0 ppm. (PM 12, Jay Ellenberger, 703-577-2386).

PP 3F2767. FMC Corp., 2000 Market St., Philadelphia, Pa. 19103. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide carbosulfan (2,3-dihydro-2,2-dimethyl-7-benzofuranyl [(dibutylamino) thio] methyl carbamate) plus carbofuran (2,3-dihydro-2,2-methyl-7-benzofuranyl-*n*-methyl-carbamate; and its carbamate cholinesterase-inhibiting metabolities 2,3-dihydro-2,2-dimethyl-3-dimethyl-3-keto-7-benzofuranyl-*n*-methylcarbamate); and its phenolic metabolites (2,3-dihydro-2,-dimethyl-7-benzofuranol; 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3, 7-benzofurandiol) and its metabolite (di-*n*-butylamine) in or on the raw agricultural commodities citrus fruit at 5.5 ppm total residues of carbosulfan consisting of 1.0 ppm carbosulfan parent, 1.7 ppm of carbamate cholinesterase-inhibiting metabolites and 2.0 ppm of the dibutylamine metabolite; and for the dibutylamine metabolite (di-*n*-butylamine) of carbosulfan in milk and meat, fat, and meat byproducts of cattle, goats, horses, and sheep at a level of 0.2 ppm. Proposed analytical method for determining residues is gas liquid chromatography with a nitrogen phorphorus detector. (PM 12, Jay Ellenberger, 703-557-2386).

FAP 3H5370. FMC Corp., Proposes amending 21 CFR Part 193 by

establishing a regulation permitting the combined residues of the insecticide carbosulfan in or on processed citrus fractions oil, at 39 ppm total residues of carbosulfan consisting of 20.0 ppm of carbosulfan parent and 12.0 ppm of carbamate cholinesterase-inhibiting metabolite. (PM 12, Jay Ellenberger, 703–557–2386).

FAP 3H5370. FMC Corp., Proposes amending 21 CFR Part 561 by establishing a regulation permitting the combined residues of the insecticide carbosulfan in or on the processed citrus fractions dried pulp, at 20 ppm total residues of carbosulfan consisting of 6.0 ppm of carbamate cholinesterase inhibiting metabolites and 6.0 ppm of the dibutylamine metabolite, and molasses at 23 ppm total residues of carbosulfan consisting of 4.0 ppm of carbamate cholinesterase-inhibiting metabolites and 4.0 ppm of the dibutylamine metabolite. (PM 12, Jay Ellenberger, 703–557–2386).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); (Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–34422 Filed 12–21–82; 8:45 am]

BILLING CODE 6560–50–M

[OPP–31059; PH–FRL 2268–6]

Certain Companies; Applications To Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register, or amend registration of pesticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by January 21, 1983.

ADDRESS: Written comments, identified by the document control number [OPP–31059] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Product Manager (PM), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 48531–R. Applicant: University of Mississippi, PO Box 5024, Southern Station, Hattiesburg, MS 39406. Product name: Selecticide. Algicide. Active ingredient: Potassium ricinoleate 50%. Proposed classification/Use: General. Proposed use, outdoor use to control algae in catfish ponds. Type registration: Conditional. (Product Manager (PM) 23–Richard Mountfort, (703–557–1830)).

2. File Symbol: 100–AUR. Applicant: Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Product name: Banner ™ Fungicide. Fungicide. Active ingredient: 1[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2yl]methyl]-1*H*-1,2,4-triazole 14.7%. Proposed classification/Use: General. To include in its presently registered use a new use for control of certain diseases in domestic turf. Type registration: Conditional. (PM 21-Henry Jacoby, (703–557–1900)).

Notice of approval or denial of an application to register, or amend registration of, a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: December 8,1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–34150 Filed 12–21–82; 8:45 am]

BILLING CODE 6560–50–M

[PP 2G2660/T398; PH–FRL 2268–7]

Diamond Shamrock Corp.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity apples. This temporary tolerance was requested by Diamond Shamrock Corporation.

DATE: This temporary tolerance expires July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: Diamond Shamrock Corp., Agricultural Chemicals Division, 1100 Superior Ave., Cleveland, Ohio 44114, has requested, in pesticide petition PP 2G2660 the establishment of a temporary tolerance for residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity apples (fresh market) at 0.1 part per million (ppm). There is a label restriction against applying the pesticide to apples to be sold for processing.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 677–EUP–22 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Diamond Shamrock Corp. must immediately notify the EPA of any

findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires July 1, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34151 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59107A; TSH-FRL 2272-3]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-6 and TM-83-7 and TM-83-8, three applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M Street S.W., Washington, D.C. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time period specifed below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-6

Date of Receipt: October 27, 1982.

Notice of Receipt: November 5, 1982 (47 FR 50337).

Applicant: Confidential.

Chemical: Polymer from PMDA and diamines (Generic).

Use: Industrial coating.

Production Volume: Confidential.

Number of Customers: 3 to 4.

Exposure Information: Potential during sampling and drumming for 2 people to be exposed for a maximum of 1 hour.

Test Marketing Period: 45 days.

Commencing on: (signature date)

Risk Assessment: Based on the type of polymer, molecular weight, and that the test market substance is not designed to be water soluble, no health or environmental concerns were identified. Exposure to workers and the environment is expected to be low.

Public Comments: None.

TME 83-7

Date of Receipt: 10/27/82.

Notice of Receipt: November 5, 1982 (47 FR 50337).

Applicant: American Hoechst Corp.

Chemical: 1,2-benzenediamine, 4-ethoxy, sulfate (1:1).

Use: Intermediate in Dye Production.

Import Volume: 15,000 kg.

Number of Use Sites: 1.

Process Information: The TME substance will be imported and processed at one ot the Company's production sites. The new substance will be a water wet solid, and will be used as an intermediate reactant in dye production. A total of 3 workers will have potential dermal exposure to the new TME substance. Total exposure during the test marketing period is expected to be approximately 68 man-hours.

Release of the TME substance will be minimal, since the new substance will be consumed by chemical reaction. Any residual quantity which might result from clean-up operations will be disposed of through an on-site treatment facility.

Test Marketing Period: 9 months.

Commencing on: December 10, 1982.

Risk Assessment: Health effect concerns identified in the review of the TME substance include potential for sensitization and hepatotoxicity with chronic exposure, as well as possible carcinogenicity by analogy to certain phenylenediamines reported to be carcinogenic in animal studies. However, exposure is expected to be very limited during the test marketing period.

The new TME substance will be imported to replace the intermediate which has been manufactured at the company's United States plant site. Thus, exposure to the new substance will be limited to processing procedures only. Since the TME substance will be imported as a water wet solid, the potential for exposure is limited to dermal contact during processing operations. Worker exposure will be minimized by the use of rubber gloves, boots, disposable coveralls, safety glasses and helmets. Exposure during the 9 months test market period is epected to be limited to about 68 man-hours. With the potential for exposure reduced by the use of protective equipment and limited in duration during the test market period the risk to human health should be minimal. Approval is contingent upon the use of all protective equipment specified in the exemption application.

Public Comments: None

TME 83-8

Date of Receipt: October 27, 1982.

Notice of Receipt: November 5, 1982 (47 FR 50337).

Applicant: Minnesota Mining and Manufacturing Company (3M).

Chemical: Modified fluoroaliphactic adduct (generic).

Use: Carpet fiber coating.

Production Volume: 1000 lbs.

Exposure: Potential dermal exposure.

Manufacturing—3 persons/8 hours per day/ 19 days per year. Processing—One fiber manufacturer—20 persons; ten carpet mills (as treated fiber).

Consumer—A probable 5,000 individuals could be exposed to treated carpet.

Test Marketing Period: 6 months.

Commencing on: December 10, 1982.

Risk Assessment: Regardless of the exposure, the TME substance is expected to be poorly absorbed due to its molecular weight. Consequently, no significant health or environmental effects are anticipated.

Public Comments: None

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environement.

Dated: December 10, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-34660 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury To Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

K/S A/S Skyward, A/S Skyward,
K/S A/S Southward, A/S Southward,
K/S A/S Starward, A/S Starward, and
Klosters Rederi A/S d/b/a Norwegian Caribbean Lines c/o Norwegian Caribbean Lines, One Biscayne Tower, Miami, Florida 33131

Dated: December 17, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34667 Filed 12-21-82; 8:45 am]

BILLING CODE 6730-01-M

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 Passengers 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 540):

K/S A/S Skyward, A/S Skyward,
K/S A/S Southward, A/S Southward,
K/S A/S Starward, A/S Starward, and
Klosters Reederi A/S d/b/a Norwegian Caribbean Lines c/o Norwegian Caribbean Lines, One Biscayne Tower, Miami, Florida 33131

Dated: December 17, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34666 Filed 12-21-82; 8:45 am]

BILLING CODE 6730-01-M

[Rate Agreement No. 9984]

South Atlantic-North Europe Rate Agreement; Termination

The Federal Maritime Commission gives notice that it shall terminate its approval of the South Atlantic-North Europe Rate Agreement No. 9984, as amended, effective January 8, 1983, the effective date of the withdrawal of Sea-Land Service, Inc. from membership in the agreement. Sea-Land's withdrawal will reduce the agreement membership to only one party, thereby terminating the agreement as a matter of law. Section 15 of the Shipping Act, 1916, only recognizes agreements between two or more persons subject to the Act.

By Order of the Federal Maritime Commission.

Dated: December 17, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34665 Filed 12-21-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Sections 304 and 306 of the Public Health Service Act, as Amended; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of December 2, 1982, by the Assistant Secretary for Health to the Director, National Center for Health Statistics, The Acting Director, National Center For Health Statistics, has delegated to the Dirctor, Centers for Disease Control (CDC), with authority to redelegate, the following authorities under Title III of the Public Health Service Act, as amended, as they pertain to the Functional responsibilities assigned to CDC:

Section 304 of the Public Health Service Act (42 U.S.C. 242b), as amended—General Authority Respecting Research, Evaluations, and Demonstrations in Health Statistics, Health Services and Health Care Technology to collect information through health statistical or epidemiological activities, where such activities of CDC are not duplicative of other activities of the Department, and when the Director, CDC, determines that the authority to give assurances of confidentiality based upon Section 308(d) is necessary for the successful conduct of these statistical and epidemiological activities.

Section 306 of the Public Health Service Act (42 U.S.C. 242k), as amended—National Center for Health Statistics, to collect information through health statistical or epidemiological activities, where such activities of CDC are not duplicative of other activities of the Department, and when the Director, CDC, determines that the authority to give assurances of confidentiality based upon Section 308(d) is necessary for the successful conduct of these statistical and epidemiological activities.

The delegation to the Director, Centers for Disease Control, became effective on December 2, 1982.

Dated: December 2, 1982.

Peter L. Hurley,

Acting Director, National Center for Health Statistics.

[FR Doc. 82-34639 Filed 12-21-82; 8:45 am]

BILLING CODE 4160-8-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alabama; Multiple Use Plan for Lands and Minerals

Pursuant to the responsibilities outlined in 43 CFR Part 1601 and the Eastern States Director Planning Guidance, the Eastern States Office (ESO) of the Bureau of Land Management (BLM), U.S. Department of the Interior, announces the completion of Phase I of the Multiple Use Plan (MUP) for public lands and Federal mineral ownership (FMO) under its jurisdiction in the State of Alabama.

Geographic Area of the Plan

The MUP considers public domain lands and FMO under ESO jurisdiction throughout Alabama, with the exception of a three-county area (Walker, Tuscaloosa, and Fayette Counties) that was examined in the *Environmental Impact Statement for the Southern Appalachian Federal Coal Production Region* (January 1981). Public lands under ESO jurisdiction in Alabama consist of 97 separate parcels, ranging in size from .04 acres to 399.40 acres, scattered over 24 counties and totaling 3,061.75 acres.

Although FMO in Alabama totals 667,014 acres, the MUP considers only those areas of FMO that underlie ESO-administered surface or privately-owned surface, and which are considered to have the greatest potential for mineral resource development. FMO under ESO-administered surface in Alabama totals 3,061.75 acres; FMO under privately-owned surface in Alabama totals 74,818 acres. Considering the largely scattered nature of this FMO, and the absence of sufficient geologic information to determine much of its development potential, the total FMO addressed in the MUP has been pared to 30,639 acres. This acreage is located in eight counties where the potential for mineral resource development is considered to be the greatest: Baldwin, Choctaw, Cherokee, Coffee, Cullman, Jackson, Marengo, and Marion.

Phase I Recommendations

During Phase I of the MUP, the 97 parcels of public land in Alabama were inventoried and reviewed in light of several issues, among them: public domain ownership conflicts; suitability or unsuitability for transfer or disposal; the presence of specific resource values (such as threatened or endangered species habitat) requiring special protection; encumbrance by withdrawal or color-of-title applications; advantages of public vs. private ownership. FMO was reviewed in the context of minerals activity throughout the State of Alabama, and with specific attention to the problem of inadequate geologic data and issues stemming from FMO under privately-owned surface.

The end product of the Phase I MUP document is a set of draft recommendations for the future management and disposal of ESO-administered public lands and FMO in the State. The recommendations fall into four general categories:

1. *Federal Minerals.* The MUP recommends that all FMO considered in the plan be retained by BLM for lease-by-application or competitive leasing. In addition, the MUP makes several recommendations regarding the gathering of more detailed geologic data.

2. *Surface Lands Requiring Detailed Land Use Planning.* None. Because of the scattered nature of BLM surface ownership in Alabama, a detailed land use plan is not recommended.

3. *Surface Lands Recommended for Transfer/Disposal.* These include 23 parcels, totaling 187.26 acres, which are recommended for transfer/disposal, with retention of mineral rights by the U.S. Fifty-one additional parcels, totaling 2,275.45 acres are involved in some type of ownership conflict. One of these (39.78 acres) is encumbered by a color-of-title application; the MUP recommends that resolution of the application be attempted at once. Another parcel (40 acres) is involved in an active trespass case; the MUP recommends that this receive the immediate attention of ESO's Resource Protection staff. The remaining 49 parcels are recommended for review for ownership status and title verification in preparation for transfer/disposal.

4. *Surface Lands Recommended for Retention/Custodial Management by BLM Pending Final Disposition.* These include 21 islands in the Coosa River that are permanently or seasonally submerged. These are currently withdrawn by the Alabama Power Company below the 350' contour; the MUP recommends that the withdrawal be revised to include all portions of these islands. Two other parcels, totaling 559.40 acres, are encumbered by U.S. Forest Service withdrawal applications for inclusion in the Talladega National Forest; the MUP recommends that the processing of these applications receive high priority. Any lands which are currently the subject of applications filed under the authority of the Recreation and Public Purposes Act will be guided by the statutory provisions of the Act. Although the filing of an application does not preclude the filing of similar applications by other qualified applicants, current BLM procedures require that applications filed under the same authority be adjudicated on a first come first served basis. Therefore, no decisions will be made on new submissions until prior applications are adjudicated on their merits.

Availability of the Phase I Draft Document and Draft Summary

A draft summary of the findings and recommendations of the Phase I MUP is available from the Tuscaloosa Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, Alabama 35401. The entire Phase I MUP document is available for inspection during business hours at the same address. Persons with questions involving the MUP should contact Bert Rodgers of the same office at (205) 759–5441.

Announcement of 45-Day Public Review and Comment Period

A 45-day public review and comment period will commence today and conclude February 5, 1983. Comments received at the Tuscaloosa Office from all interested parties will be considered before the Phase I draft recommendations are accepted or rejected by the Eastern States Director. Notice of the Eastern States Director's action with respect to the Phase I recommendations will be published in the **Federal Register** after the 45-day comment period expires, and will incorporate management's proposed schedule for implementing any or all of the recommendations, as well as future opportunities for public participation.

G. Curtis Jones, Jr.,
Eastern States Director.

[FR Doc. 82-34552 Filed 12-21-82; 8:45 a.m.]
BILLING CODE 4310-84-M

California Desert District; Soggy Dry Lake Creosote Rings and Barstow Woolly Sunflower Areas of Critical Environmental Concern

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of public lands to vehicle use.

SUMMARY: The closure is being implemented to protect sensitive botanical values from inadvertent damage caused by vehicle use. The areas affected by this vehicle closure are the Soggy Dry Lake Creosote Rings ACEC and the Barstow Wooly Sunflower ACEC. The Soggy Dry Lake

Creosote Rings ACEC contains 278 acres of BLM-managed lands near Lucerne Valley in San Bernardino County. The Barstow Wooly Sunflower ACEC contains 160 acres of BLM-managed lands near Kramer Junction in San Bernardino County. Closures are the result of management plans for these ACECs which were developed following the guidelines established in the California Desert Conservation Area Plan. Development of these plans included public involvement.

AUTHORITY: Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), 43 CFR 8000.0–6. 8340, 8341, 8342, and 8364, and Executive Order 11644 (Use of Off-Road Vehicles on Public Lands).

DATE: This notice is effective upon publication.

VEHICLE USE: Vehicle use within these areas is not permitted. The areas will be clearly signed. Copies of maps showing the closed areas are available for review at the Barstow Resource Area Office, 831, Barstow Road, Barstow, California 92311. The public lands within the ACECs will remain open to other resource uses not in conflict with the objectives of their management plans. Administrative access by vehicle into areas closed to vehicle access is allowed for BLM personnel, BLM contractors, licensees, permittees, lessees, and other Federal, State, and county employees when on official duty and when authorized beforehand by the Area Manager.

FOR FURTHER INFORMATION CONTACT: Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311, or telephone (619) 256–3591.

Hugh Riecken,

Acting District Manager.

[FR Doc. 82–34638 Filed 12–21–82; 8:45 am]

BILLING CODE 4310–84–M

Proposed Land Tenure Adjustment Program in the Escondido Project Area of the California Desert District, Bureau of Land Management (Counties of San Diego, Part; Orange, All; Los Angeles, Part; San Bernardino, Part; Riverside, Part)

The Bureau of Land Management, in an effort to better manage lands under its jurisdiction within the California Desert District, is proposing a land tenure adjustment program which would divest the Bureau of Land Management from the five southern California counties. The classes of land are:

1. Land proposed to be transferred to the National Forest System,

2. Land proposed to be acquired by local governmental entities,

3. Land proposed to be placed on the market to be sold at fair market value.

Comments on the proposed action are being solicited from public agencies and interested individuals and organizations. The Bureau invites written comments to be submitted by February 1, 1983 to the following address; Escondido Project Area Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351–6394.

Three public hearings will be conducted as a part of this review in late January and will be conducted from 2 p.m. to 5 p.m. and 6 p.m. to 9 p.m. on each day. The dates and locations are scheduled as follows:

January 25, 1983: Riverside, California, Bureau of Land Management, Conference Room, 1695 Spruce Street.

January 26, 1983: San Diego, California, San Diego County Administration Building, 1600 Pacific Coast Highway, Room 303.

January 27, 1983: Los Angeles, California, U.S. Courthouse 312 N. Spring Street, Room 332.

Copies of the proposed action have been mailed to all individuals on our mailing list. There will be a limited number of copies available upon request or at the meeting places.

Dated: December 13, 1982.

Hugh Riecken,

Acting District Manager.

[FR Doc. 82–34637 Filed 12–21–82; 8:45 am]

BILLING CODE 4310–84–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 104–TAA–10]

Certain Dairy Products From the European Community

Determination

On the basis of the record [1] developed in investigation No. 104–TAA–10, the Commission unanimously determines, pursuant to section 104(a) of the Trade Agreements Act of 1979, that an industry in the United States is not materially injured, is not threatened with material injury, and that the establishment of an industry is not materially retarded by reason of imports from the European Community (EC) of certain dairy products [2] which are subject to an outstanding countervailing duty order, but for which the imposition and collection of such duties have been waived.

Background

Section 104(a) of the Trade Agreements Act of 1979 requires that the U.S. International Trade Commission make an injury determination in those cases in which the Commission has received the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, which had been waived pursuant to section 303(d) of the Tariff Act of 1930.

On June 10, 1982, the Commission received a letter dated June 8, 1982 from the U.S. Department of Commerce (Commerce) transmitting the most current information regarding subsidies bestowed by the EC on nonfat dry milk and butter. On August 13, 1982, Commerce amended its letter of June 10, 1982, to include the most current information on all the products in the waived countervailing duty order except quota cheese and the certain nonquota cheeses, for which the Commission had previously determined in *Certain Nonquota Cheese from Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom*, USITC Pub. No. 1079 (June 1980), that there was no material injury or threat thereof. Accordingly, on August 27, 1982, the Commission instituted investigation No. 104–TAA–10 to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports from the EC of certain dairy products which are subject to the countervailing duty order for which the imposition and collection of duties has been waived.

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was given by posting copies of

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[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] The dairy products included in the investigation are:

1. Milk and cream, fluid, condensed, evaporated, or dried; butter and butter substitutes; and cheese except quota cheeses (as defined in section 701(c)(1) of the Trade Agreements Act of 1979) and certain nonquota cheeses made from goat's or sheep's milk (all the foregoing provided for in subparts A, B, and C, part 4, schedule 1, or the Tariff Schedules of the United States (TSUS)).

2. Whey and yoghurt and other fermented milk (provided for in TSUS items 118.00–.10, inclusive).

3. Animal oils, fats, and greases, all the foregoing derived from milk (provided for in TSUS item 177.67).

4. Animal feeds containing milk or milk derivatives (provided for in TSUS items 184.70 and 184.80).

the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on September 9, 1982 (47 FR 39744). The public hearing was held in Washington, D.C. on October 21, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Alfred E. Eckes and Commissioner Paula Stern

Pursuant to section 104(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), we determine that an industry in the United States is not materially injured or threatened with material injury, or that the establishment of an industry in the United States is not materially retarded,[3] by reason of imports of certain dairy products from the European Community (EC) which are subject to a countervailing duty (CVD) order [4] for which the imposition and collection of duties has been waived.

Introduction

In July 1968, the National Milk Producers Federation filed a petition with the U.S. Department of the Treasury (Treasury) [5] alleging that bounties and grants in the form of export subsidies were being paid and bestowed by all foreign countries on dairy products imported into the United States. As a result of the investigation instituted pursuant to this petition, Treasury published a "Notice of Countervailing Duties" on dairy products from the EC in May 1975. Purusant to section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), as amended by the Trade Act of 1974, Treasury simultaneously issued a Waiver of Countervailing Duties. This waiver, which would otherwise have expired, was extended on April 3, 1979, by Pub. L. 96–6. (19 U.S.C. 1303(4)(A)).

The Commission's jurisdiction in this section 104 investigation is based on the Trade Agreements Act of 1979. This act established an injury test for CVD cases and provided for a review of designated CVD orders issued in investigations without a material injury test prior to enactment of the Trade Agreements Act of 1979 for the purpose of making such orders consistent with the new law.[6] The purpose of this investigation is to make a material injury determination with respect to certain dairy products from the EC subject to the CVD order which was imposed without the benefit of an injury test. Section 104(a) covers this CVD order for which the imposition of duties was waived by the Secretary of the Treasury pursuant to section 303(d) of the Tariff Act of 1930.

Section 104(a)(1) requires the Department of Commerce (Commerce) to notify the Commission of the CVD orders in effect on January 1, 1980, for which the imposition of duties has been waived.[7] It further requires Commerce to furnish the Commission with "the most current information it has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order."

Commerce notified the Commission of the "most current information" available regarding certain EC dairy products subject to the waived order by letters of June 8 and August 9, 1982. These letters stated that there were no net subsidies currently bestowed by the EC, but that "the countervailable program of EC restitution payments remains in effect, though the EC has suspended specific payments * * * since July 12, 1974." [8 9]

The Domestic Industry

We begin our analysis with the definition of the relevant domestic industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 [10] defines the term "industry" as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is, in turn, defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this title."

The present investigation covers:

1. Milk and cream, fluid, condensed, evaporated, or dried; butter and butter substitutes; and cheese except quota cheeses (as defined in section 701(c)(1) of the Trade Agreements Act of 1979) and certain nonquota cheeses made from goat's or sheep's milk (all the foregoing provided for in subparts A, B, and C part 4, schedule 1, of the Tariff Schedules of the United States (TSUS)).

2. Whey and yoghurt and other fermented milk (provided for in TSUS items 118.00–.10, inclusive).

3. Animal oils, fats, and greases, all the foregoing derived from milk (provided for in TSUS item 177.67).

4. Animal feeds containing milk or milk derivatives (provided for in TSUS items 184.70 and 184.80).[11]

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[3] Since there is an established domestic dairy industry, the question of material retardation of the establishment of an industry is not at issue and will not be discussed further.

[4] This is not the first time that the Commission has been asked to make a material injury determination with regard to imports subject to this waived CVD order. On January 7, 1980, the Commission received a notice from the Department of Commerce that the same products subject to the instant investigation were being referred to the Commission for an injury determination, and on February 5, 1980, the Commission received from the Department of Commerce the most current net subsidy information with regard to these dairy products. In its February 5, 1980 letter, Commerce informed the Commission of the amount of the subsidies for certain nonquota cheeses and also indicated that no payments were currently being paid on exports of the other dairy products to the United States that were included in the order. Consequently, the Commission conducted an investigation only with regard to imports of the nonquota cheeses for which subsidies had been found and ultimately determined that there was no material injury in Certain Nonquota Cheese from Belgium, Denmark, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom, USITC Pub. No. 1079 (June 1980). The Commission in its 1980 proceeding did not conduct an investigation with regard to those dairy products which the Department of Commerce reported were not subject to a net subsidy.

In Molasses from France, USITC Pub. No. 1248 (May 1982), the Commission determined that it is "appropriate for the Commission to conduct a section 104 investigation so long as the order remains outstanding and the subsidy can be resumed." Although the Molasses review was conducted pursuant to section 104(b), the Department of Commerce cited it as the basis for again asking us to review the remaining dairy products subject to the waived CVD order despite its finding of no net subsidies for these products. See Report at A–68. This background serves to emphasize the unique nature of this case.

[5] Most of the Treasury Department's functions regarding CVD cases have been transferred to the Commerce Department. 44 FR 69173.

[6] S. Rep. No. 96–249, 96th Cong., 1st Sess. 106 (1979).

[7] 19 USC 1671.

[8] We note that the Department of Commerce in its investigation regarding the existence of subsidies did not look into any of the EC's internal mechanisms but solely relied on the EC's authorized export restitution payments, Official Journal of the European Communities. Notes of telephone conversations of Oct. 21 and 28, 1982, between Commission staff and Commerce Department official. Witnesses at the hearing held on Oct. 21, 1982, before the Commission contested Commerce's conclusion that the EC does not subsidize its exports of dairy products to the United States. Transcript 5–7, 11–13, 22. Pursuant to the bifurcated process for resolving these issues provided for by Congress, Commerce is the appropriate forum for presenting objections to the determination of the existence and level of the subsidy.

[9] Commissioner Stern notes that, in addition to the reasons for a negative determination contained in these views, the absence of subsidy payments and the lack of information indicating the likelihood of resumed payments supports a negative determination in this investigation.

[10] Section 104(e) of the Trade Agreements Act of 1979 provides that: "[w]henever any term which is defined in section 771 of the Tariff Act of 1930 is used in [section 104], it has the same meaning as when it is used in title VII of that Act."

[11] While the subject of this investigation is described in terms of the TSUS, the outstanding CVD order described the products covered in terms of the brusasels Tariff Nomenclature.

The different imported dairy products subject to this investigation are clearly distinguishable in terms of characteristics and uses. However, domestic producers do not segregate their economic data by product. Therefore, the narrowest group of products for which profit and loss data is available for this investigation includes all of the domestic dairy products. Thus, the domestic industry in this investigation includes all producers of all dairy products.

Condition of the Domestic Industry

Because all the subject dairy products are derived from milk, our analysis is based on data for milk which is representative of the total industry. Although the number of domestic farms selling milk declined from about 402,000 in 1977 to 325,000 in 1981 and the number of U.S. plants producing manufacture dairy products decclined moderately during the same period, both the production of milk and the value of milk production increased. From 1977 to 1982, milk production increased from nearly 123 billion pounds to approximately 134 billion pounds. The value of production increased from nearly $12 billion in 1977 to over $18 billion in 1981.[12]

Material Injury or Threat Thereof

Pursuant to section 22 of the Agricultural Adjustment Act (21 U.S.C. 24) imports of most of these dairy products have been limited by quotas for a considerable time, some as long as thirty years.[13] There is no reason to expect that this situation will change in the foreseeable future. The impact of these dairy imports must be viewed in conjunction with the U.S. Department of Agriculture's price support program for the dairy products subject to this investigation. This was recognized by Congress in its enactment of section 771(7)(D), 19 U.S.C. 1677(7)(D) which directs that the Commission consider any increased burden on government income or price support programs in assessing material injury for agricultural commodities.

These imports have been equivalent to less than 0.5 percent of U.S. consumption in recent years.[14] In particular, U.S. imports of the most widely traded dairy products, NFDM and butter, which entered at their maximun allowable levels under the quota in 1981, equaled only 0.2 percent of domestic NFDM production and 0.06 percent of domestic butter production. Although the price of imported condensed or evaporated milk and cream, nonfat dried milk, and butter have been lower than domestic prices throughout the period of this investigation, and the differential between domestic and imported prices has been increasing, there has not been a depressing effect on domestic prices.[15]

The U.S. price support program [16] provides a price floor for manufacturing grade milk. In order to accomplish this objective, the USDA purchases three manufactured dairy products, butter, nonfat dry milk, and Cheddar cheese,[17] that can be stored for several years. When market demand and supply are in balance as in 1977, the market price may exceed the support level. However, when milk supplies exceed demand, as they have since 1979, the market will fall to the support price level and the support price may even exceed the market price.

Because the supported price of whole milk keeps the production costs of all dairy products up in times of oversupply, all dairy products are to some degree influenced by the price support program for milk when supply exceeds demand, even though they may not be directly purchased by USDA. Hence, the prices for non-USDA purchased items, such as condensed and evaporated milk and cream and dried whole milk, behave similarly to the prices of the three USDA purchased products. During the 1977 to 1981 period, domestic prices for the three USDApurchased dairy products, Cheddar cheese, NFDM, and butter, increased by a range of 38 to 52 percent. The price of yoghurt,[18] increased approximately 10 percent during the 1977–1981 period, and the price of whey powder [19] used for animal feed from 16 cents per pound to 14 cents per pound between 1978 and 1981.[20]

The traditional indicators of injury do not demonstrate material injury or threat thereof to the domestic industry by reason of the subject imports. However, the impact of dairy imports from the EC on the U.S. dairy industry may not be fully measurable by the traditional indices of material injury to the domestic producers because of the United States government price support programs for dairy products subject to this investigation. Thus, the impact of dairy imports must be viewed in conjunction with the USDA's price support program. In fact, section 771(7)(D) of the Tariff Act directs the Commission to consider "any increased burden on government income or price support programs" in assessing material injury for agricultural commdities.[21]

The U.S. Government's net support purchases of dairy products increased during the period under investigation. Although net support purchases decreased from nearly $710 million for the year ending September 30, 1977, to over $244 million for the year ending in September 30, 1979, the amount increased to nearly $2 billion in the year ending September 30, 1981. However, even assuming all imports subject to this investigation displaced domestic products, the total cost to the price support program is estimated at $38 million [22] approximately 0.2 percent of net U.S. government expenditures on the dairy support program. However, inasmuch as the quotas on the products under investigation have been in effect for years and the volume of the subject imports has remained stable, we do not have any reason to foresee a change in this situation.[23, 24]

The increased government expenditures on the price support program for dairy products may be explained by increased domestic milk production and higher support prices. With the exception of specialty cheeses, imports of dairy products subject to this investigation have been at minimal levels.

For these reasons we have determined that the domestic industry is not materially injured by reason of imports of the merchandise subject to the waived countervailing duty order on dairy products from the EC.

The Community used export refunds of over $2.3 billion in 1981 to sell surplus dairy products abroad to countries other than the United States. Comparisons of the EC dairy export data with the data on U.S. imports of EC dairy products confirms the existence of other export markets for EC dairy products. Although the EC's restitution payments may result in increased exports to third country markets, this is not an issue in this

[12] Report at A–26.
[13] Report at A–16.
[14] Report at A–40.
[15] Report at A–46.
[16] 7 U.S.C. 1421 note.
[17] Two of the products purchased by USDA, butter and NFDM, are included in this investigation.
[18] The lower price increase of yoghurt is partly explained by the price premium that this product attained during the years of rapid consumption growth in the 1970's. Recently, with increasing competition in the yoghurt market, prices have not grown as rapidly as previously.
[19] The price decline of whey—a by-product of cheese—is partly explained by the rapid rise in production of cheese in the 1970's and the consequent excess supply of whey on the market.
[20] Report at A–47.
[21] 19 U.S.C. 1677(7)(D).
[22] Report at A–52.
[23] Chairman Eckes directs the reader to compare Sugar from the EC, Inv. No. 104–TAA–7, at 11, USITC Pub. No. 1247 (May 1982).
[24] Report at A–16.

investigation.[25] The availability of other markets for EC dairy products coupled with the quantitative restrictions on access to the U.S. market indicates that there is no real threat of imminent injury to the domestic industry by reason of the subject imports.

Views of Commissioner Veronica A. Haggart

Pursuant to section 104(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), we determine that an industry in the United States is not materially injured or threatened with material injury, or that the establishment of an industry in the United States is not materially retarded,[26] by reason of imports of certain dairy products from the European Community (EC) which are subject to a countervailing duty (CVD) order [27] for which the imposition and collection of duties has been waived.

Introduction

In July 1968, the National Milk Producers Federation filed a petition with the U.S. Department of the Treasury (Treasury) [28] alleging that bounties and grants in the form of export subsidies were being paid and bestowed by all foreign countries on dairy products imported into the United States. As a result of the investigation instituted pursuant to this petition, Treasury published a "Notice of Countervailing Duties" on dairy products from the EC in May 1975. Pursuant to section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), as amended by the Trade Act of 1974, Treasury simultaneously issued a Waiver of Countervailing Duties. This waiver, which would otherwise have expired, was extended on April 3, 1979.[29]

The Commission's jurisdiction in this section 104 investigation is based on the Trade Agreements Act of 1979. This act established an injury test for CVD cases and provided for a review of designated CVD orders issued in investigations without a material injury test prior to enactment of the Trade Agreements Act of 1979 for the purpose of making such orders consistent with the new law.[30] The purpose of this investigation is to make a material injury determination with respect to certain dairy products from the EC subject to the CVD order which was imposed without the benefit of an injury test. Section 104(a) covers this CVD order for which the imposition of duties was waived by the Secretary of the Treasury pursuant to section 303(d) of the Tariff Act of 1930.

Section 104(a)(1) requires the Department of Commerce (Commerce) to notify the Commission of the CVD orders in effect on January 1, 1980, for which the imposition of duties has been waived.[31] It further requires Commerce to furnish the Commission with "the most current information it has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order."

Commerce notified the Commission of the "most current information" available regarding certain EC dairy products subject to the waived order by letters of June 8 and August 9, 1982. These letters stated that there were no net subsidies currently bestowed by the EC, but that "the countervailable program of EC restitution payments remains in effect, though the EC has suspended specific payments * * * since July 12, 1974." [32]

The Domestic Industry

We begin our analysis with the definition of the relevant domestic industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 [33] defines the term "industry" as the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is, in turn, defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this title."

The present investigation covers:

1. Milk and cream, fluid, condensed, evaporated, or dried; butter and butter substitutes; and cheese except quota cheeses (as defined in section 701(c)(1) of the Trade Agreements Act of 1979) and certain nonquota cheeses made from goat's or sheep's milk (all the foregoing provided for in subparts A, B, and C, part 4, schedule 1, of the Tariff Schedules of the United States (TSUS)).

2. Whey and yogurt and other fermented milk (provided for in TSUS items 118.00–.10, inclusive).

3. Animal oils, fats, and greases, all the foregoing derived from milk (provided for in TSUS item 177.67).

4. Animal feeds containing milk or milk derivatives (provided for in TSUS items 184.70 and 184.80).[34]

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[25] This may be a violation of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures) to which both the EC and the United States are parties. The proper recourse for such a violation is the filing of a petition pursuant to section 302 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979, 19 U.S.C. 2412.

[26] Since there is an established domestic dairy industry, the question of material retardation of the establishment of an industry is not at issue and will not be discussed further.

[27] This is not the first time that the Commission has been asked to make a material injury determination with regard to imports subject to this waived CVD order. On January 7, 1980, the Commission received a notice from the Department of Commerce that the same products subject to the instant investigation were being referred to the Commission for an injury determination, and on February 5, 1980, the Commission received from the Department of Commerce the most current net subsidy information with regard to these dairy products. In its February 5, 1980 letter, Commerce informed the Commission of the amount of the subsidies for certain nonquota cheeses and also indicated that no payments were currently being paid on exports of the other dairy products to the United States that were included in the order. The Commission conducted an investigation only with regard to imports of the nonquota cheeses for which subsidies had been found and ultimately determined that there was no material injury in Certain Nonquota Cheese from Belgium, Denmark, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom, USITC Pub. No. 1079 (June 1980). The Commission in its 1980 proceeding did not conduct an investigation with regard to those dairy products which the Department of Commerce reported were not subject to a net subsidy.

In Molasses from France, USITC Pub. No. 1248 (May 1982), the Commission determined that it is "appropriate for the Commission to conduct a section 104 investigation so long as the order remains outstanding and the subsidy can be resumed." Although the molasses review was conducted pursuant to section 104(b), the Department of Commerce cited it as the basis for again asking us to review the remaining dairy products subject to the waived CVD order despite its finding of no net subsidies for these products. See Report at A–68. This background serves to emphasize the unique nature of this case.

[28] Most of the Treasury Department's functions regarding CVD cases have been transferred to the Commerce Department. 44 FR 69173.

[29] Pub. L. 96–6 (19 U.S.C. 1303(4)(A)).

[30] S. Rep. No. 96–249, 96th Cong., 1st Sess. 106 (1979).

[31] 19 U.S.C. 1671.

[32] We note that the Department of Commerce in its investigation regarding the existence of subsidies did not look into any of the EC's internal mechanisms but solely relied on the EC's authorized export restitution payments, Official Journal of the European Communities. Notes of telephone conversations of Oct. 21 and 28, 1982, between Commission staff and Commerce Department official. Witnesses at the hearing held on Oct. 21, 1982, before the Commission contested Commerce's conclusion that the EC does not subsidize its exports of dairy products to the United States. Transcript (TR) 5–7, 11–13; 22. Pursuant to the bifurcated process for resolving these issues provided for by Congress, Commerce is the appropriate forum for presenting objections to the determination of the existence and level of the subsidy.

[33] Section 104(e) of the Trade Agreements Act of 1979 provides that: "[w]henever any term which is defined in section 771 of the Tariff Act of 1930 is used in [section 104], it has the same meaning as when it is used in title VII of that Act."

[34] While the subject of this investigation is described in terms of the TSUS, the outstanding CVD order described the products covered in terms of the Brussels Tariff Nomenclature.

The different imported dairy products subject to this investigation are clearly distinguishable in terms of characteristics and uses. However, domestic producers do not segregate their economic data by product. Therefore, the narrowest group of products for which profit and loss data is available for this investigation includes all of the domestic dairy products. Thus, the domestic industry in this investigation includes all producers of all dairy products.

Condition of the Domestic Industry

Because all the subject dairy products are derived from milk, our analysis is based on data for milk which is representative of the total industry. Although the number of domestic farms selling milk declined from about 402,000 in 1977 to 325,000 in 1981 and the number of U.S. plants producing manufactured dairy products declined moderately during the same period, both the production of milk and the value of milk production increased. From 1977 to 1982, milk production increased from nearly 123 billion pounds to approximately 134 billion pounds. The value of production increased from nearly $12 billion in 1977 to over $18 billion in 1981.[35]

Material Injury or Threat Thereof

The traditional indicators of injury do not demonstrate material injury or threat thereof to the domestic industry by reason of the subject imports. However, the impact of dairy imports from the EC on the U.S. dairy industry may not be fully measurable by the traditional indices of material injury to the domestic producers because of the United States government price support program for dairy products subject to this investigation. Thus, the impact of dairy imports must be viewed in conjunction with the USDA's price support program. In fact, section 771(7)(D) of the Tariff Act directs the Commission to consider "any increased burden on government income or price support programs" in assessing material injury for agricultural commodities.[36]

The U.S. price support program [37] provides a price floor for manufacturing grade milk. In order to accomplish this objective, the USDA purchases three manufactured dairy products—butter, nonfat dry milk, and Cheddar cheese—[38] that can be stored for several years. When market demand and supply are in balance as in 1977, the market price may exceed the support level. However, when milk supplies exceed demand, as they have since 1979, the market will fall to the support price level and the support price may even exceed the market price.

Because the supported price of whole milk keeps the production costs of alldairy products up in times of oversupply, all dairy products are to some degree influenced by the price support program for milk when supply exceeds demand, even though they may not be directly purchased by USDA. Hence, the prices for non-USDA purchased items, such as condensed and evaporated milk and cream and dried whole milk, behave similarly to the prices of the three USDA purchased products. During the 1977 to 1981 period, domestic prices for the three USDA-purchased dairy products—Cheddar cheese, NFDM, and butter—increased by a range of 38 to 52 percent. The price of yogurt [39] increased approximately 10 percent during the 1977–1981 period, and the price of whey powder [40] used for animal feed fell from 16 cents per pound to 14 cents per pound between 1978 and 1981.[41]

With regard to the issue of increased government expenditures, the U.S. Government's net support purchases of dairy products increased during the period under investigation. Although net support purchases decreased from nearly $710 million for the year ending September 30, 1977, to over $244 million for the year ending in September 30, 1979, the amount increased to nearly $2 billion in the year ending September 30, 1981. However, even assuming all imports subject to this investigation displaced domestic products, the total cost to the price support program is estimated at $38 million,[42] approximately 0.2 percent of net U.S. government expenditures on the dairy support program. In any case, the increased government expenditures on the price support program for dairy products may be explained by increased domestic milk production and higher support prices.

Pursuant to section 22 of the Agricultural Adjustment Act (21 U.S.C. 24) imports of most of these dairy products have been limited by quotas for a considerable time, some as long as thirty years.[43] There is no reason to expect that this situation will change in the foreseeable future. These imports have been equivalent to less than 0.5 percent of U.S. consumption in recent years.[44] In particular, U.S. imports of the most widely traded dairy products, NFDM and butter, which entered at their maximum allowable levels under the quota in 1981, equaled only 0.2 percent of domestic NFDM production and 0.06 percent of domestic butter production.

For these reasons we have determined that the domestic industry is not materially injured by reason of imports of the merchandise subject to the waived countervailing duty order on diary products from the EC.

The Community used export refunds of over $2.3 billion in 1981 to sell surplus dairy products abroad to countries other than the United States. Comparisons of the EC dairy export data with the data on U.S. imports of EC dairy products confirms the existence of other export markets for EC dairy products. Although the EC's restitution payments may result in increased exports to third country markets, this is not an issue in this investigation.[45] The availability of other markets for EC dairy products coupled with the quantitative restrictions on access to the U.S. market indicates that there is no real threat of imminent injury to the domestic industry by reason of the subject imports.

By order of the Commission.

Issued: December 13, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34690 Filed 12-21-82; 8:45 am]

BILLING CODE 7020-02-M

[35] Report at A–26.

[36] 19 U.S.C. 1677(7)(D).

[37] 7 U.S.C. 1421 note.

[38] Two of the products purchased by USDA, butter and NFDM, are included in this investigation.

[39] The lower price increase of yogurt is partly explained by the price premium that this product attained during the years of rapid consumption growth in the 1970's. Recently, with increasing competition in the yogurt market, prices have not grown as rapidly as previously.

[40] The price decline of whey—a by-product of cheese—is partly explained by the rapid rise in production of cheese in the 1970's and the consequent excess supply of whey on the market.

[41] Report at A–47.

[42] Report at A–52.

[43] Report at A–16.

[44] Report at A–40.

[45] This may be a violation of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures) to which both the EC and the United States are parties. The proper recourse for such a violation is the filing of a petition pursuant to section 301 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979, 19 U.S.C. 2412.

[Investigation No. 337-TA-132]

Certain Hand-Operated, Gas-Operated Welding, Cutting, and Heating Equipment and Component Parts Thereof; Commission Decision Not To Review Initial Determination To Terminate Investigation With Respect To Three Respondents

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination to terminate the investigation as to the following respondents: Stillman & Associates, Inc., Fischer Welding Products, and Tacoma Tool Co. Accordingly, as of December 14, 1982, the initial determination became the Commission's determination with respect to this matter.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53(c) and (h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: On November 17, 1982, complainant Victor Equipment Co. filed a motion (Motion No. 132-5) to dismiss Stillman & Associates, Inc., Fischer Welding Products, and Tacoma Tool Co. as party respondents because those respondents have either ceased importing or may, in fact, never have imported the articles under investigation. On November 26, 1982, the presiding officer filed an initial determination with the Commission granting the motion.

Pursuant to § 210.53(h)(2) of the Commission's rules, an initial determination of the presiding officer under § 210.53(c) becomes the determination of the Commission fifteen (15) days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 132-5 and the initial determination of the presiding officer, the Commission found no grounds for review of the initial determination. It notes that the investigation will continue with respect to the remaining two respondents.

Copies of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0421.

By order of the Commission.

Issued: December 14, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34692 Filed 12-21-82; 8:45 am]

BILLING CODE 7020-02-M

[332-150]

Effect of Changes in the Value of the U.S. Dollar on Trade in Selected Commodities

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted on its own motion investigation No. 332-150 for the purpose of assessing the impact of changes in the foreign-exchange value of the U.S. dollar on U.S. trade in selected commodities. The commodities under study are: (1) Polyester staple fiber; (2) cotton denim fabric; (3) unwrought magnesium; (4) alloyed copper strip; (5) pianos; and (6) bicycles.

EFFECTIVE DATE: December 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz or Mr. Robert Wallace, Textiles, Leather Products, and Apparel Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202-523-0114 or 202-523-0120).

WRITTEN SUBMISSIONS: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on April 1, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: December 16, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34691 Filed 12-21-82; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[OP-5FC 289]

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to be the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, (202) 275–7289.

MC–FC–81021. By decision of December 3, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to MARSHALL P. LEDBETTER, SR., and MARSHALL P. LEDBETTER, JR., doing business as LEDBETTER & LEDBETTER, Columbia, TN, of Certificate No. MC–108692 issued July 15, 1957, to VICTORY VAN LINES, INC., Columbia, TN, authorizing the transportation of household goods between points in Maury, Lewis, Hickman, and Giles Counties, TN, on the one hand, and, on the other, points in AL, GA, FL, KY, NC, and SC. Representative: Lon P. MacFarland, P.O. Box 1121, Columbia, TN 38401.

[FR Doc. 82–34649 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decision; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient oposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains apporpriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplicaiton shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries about the following to Team One at (202) 275–7992.

Volume No. OP1–231

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 74761 (Sub-26), filed December 7, 1982. Applicant: TRAILWAYS TAMIAMI, INC., 200 Spring St., NW., Atlanta, GA 30303. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Over regular routes, transporting *passengers*, between Savannah, GA, and Jacksonville, FL, from Savannah over Interstate Hwy 16 to junction Interstate 95, then over Interstate Hwy 95 to Jacksonville, FL, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack the sought rights with its existing regular-route authority. Applicant seeks to provide regular-route service in interstate or foreign commerce, and in intrastate service under 49 U.S.C. 10922(c)(2)(B).

MC 116510 (Sub-3), filed December 3, 1982. Applicant: KEENAN TRANSIT CO., 3600 North Ave., Melrose Park, IL 60161. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, (312) 641–5900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Whitaker Carpenter Paper Company, of Elk Grove Village, IL.

MC 143001 (Sub-6), filed December 1, 1982. Applicant: PARK CITY MOTORWAYS, INC., R.R. 2, Box 47, Merrill, WI 54452. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848.

Transporting (1) *chemical and related products,* (a) between Minneapolis, MN, on the one hand, and, on the other, points in WI, and (b) between Chicago, IL, and points in Hardin County, KY, on the one hand, and, on the other, Minneapolis, MN, and points in WI, (2) *scrap and waste paper,* between points in the U.S. (except AK and HI), (3) *food and related products,* between points in WI, and Dickinson County, MI, on the one hand, and on the other, points in the U.S. (except AK and HI), (4) *pulp, paper, and related products,* between points in Marathon and Oneida Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (5) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Dane and Lincoln Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147131 (Sub-8), filed December 7, 1982. Applicant: KENNAMER BROTHERS, INC., Route 2, Box 866, Grant, AL 35747. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3880. Transporting *food and related products,* between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, VA, WV, and WI.

MC 161830 (Sub-1), filed December 9, 1982. Applicant: ESCANABA OIL COMPANY, INC., P.O. Box 606, Escanaba, MI 49829. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701, (608) 257–9521. Transporting *petroleum products,* in bulk, between points in WI, on the one hand, and, on the other, points in Delta, Dickinson, Houghton, Marquette, and Schoolcraft Counties, MI.

Please direct status inquiries about the following to team 2, (202)275–7030.

Volume No. OP2–323

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

W 1363, filed November 26, 1982. Applicant: ROMULUS DEVELOPMENT CORP., Foot of Baldwin Ave., Weehawken, NJ 07087. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. To operate a ferry service, transporting, by water carrier, *passengers, their baggage, and newspapers,* between points in the New York Harbor.

MC 52793 (Sub-116), filed December 7, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 321–547–2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Lockheed Shipbuilding Co.

MC 121572 (Sub-3), filed November 19, 1982. Applicant: TRANS STATE BUS, INC., Route 1, Hwy 156, Larned, KS 67550. Representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603, (913) 232–7263. *Over regular routes,* transporting *passengers,* between Liberal, KS, and McCook, NE, over U.S. Hwy 83, serving all intermediate points, including Lakin and Colby, KS.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce. This is a "public interest" application.

MC 134153 (Sub-5), filed December 7, 1982. Applicant: D & D TRANSPORTATION CO., INC., 1059 Empire Ave., Camden, NJ 08103. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, 215–365–5141. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

Note.—Applicant seeks to convert its contract authority to common carrier authority.

Note.—Applicant's permits under MC 134153 subs 1 and 3, issued April 12, 1976 and August 18, 1982, respectively, are hereby cancelled.

MC 143553 (Sub-18), filed December 7, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Sybron Tanatex Chemical Corp., of Wellford, SC, and its following divisions: (a) Jersey State Chemical, of Haledon, NJ, and (b) Gamlen Chemical, of Clifton, NJ.

MC 143533 (Sub-19), filed December 7, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEM, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Beverage-Air, a company of Tannetics, Inc., of Spartanburg, SC.

MC 148203 (Sub-9), filed December 6, 1982. Applicant: COPPER CITY TRANSPORT, INC., Old Route 5S, RD #2, Frankfort, NY 13340. Representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, NY 13501, 315–797–1970. Transporting *waste metals, waste paper and recyclable materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Empire Recycling Corp., of Utica, NY.

MC 150422 (Sub-2), filed December 6, 1982. Applicant: CONAGRA TRANSPORTATION, INC., 5440 West Channel Rd., Catoosa, OK 74015. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036, (202) 331–8800. Transporting *general commodities* (except AK and HI), under continuing contract(s) with Country Pride Foods Limited, of Athens, AL.

MC 164942, filed November 29, 1982. Applicant: LAUDERDALE AIRPORT WAREHOUSE, INC., 304 S.W. 12th St., Ft. Lauderdale, FL 33315. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328, 305–434–7621. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Dade, Broward, Palm Beach, and St. Lucie Counties, FL.

MC 164592, filed November 29, 1982. Applicant: CANALSIDE CORPORATION, 205 Central Ave., Cincinnati, OH 45202. Representative: Michael Spurlock,275 East State St., Columbus, OH 43215. Transporting, *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH and KY, on the one hand, and, on the other, points in IN, OH, PA, WV, VA, TN, NC and KY.

Please direct status inquiries about the following to Team 3, (202) 275–5223.

Volume No. OP3–53A

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 118–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. Over regular routes, transporting *passengers,* between Peoria, IL and Davenport, IA: (a) from Peoria over I–74 to Davenport, IA and (b) from Peoria over I–74 to the junction with U.S. Hwy 6, then over U.S. Hwy 6 to Davenport, and return over the same routes, serving all intermediate points and the off-route points of Galesburg and Rock Island, IL.

Note.—Applicant intends to tack this authority to its existing regular route authority.

Note.—Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 118–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. Transporting (1) *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No. OP5–285

Decided: December 10, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 114028 (Sub-52), filed November 29, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION, COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Edward G. Bazelon, 135 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities,* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Paper Company of New York, NY, and Richmond Gravure and Mid Continent Carton, wholly-owned subsidiaries of International Paper Company.

MC 126898 (Sub-16), filed November 15, 1982. Initially published in **Federal Register** republication on December 3, 1982. Applicant: BULLDOG HIWAY EXPRESS, P.O. Box 506, Charleston, SC 29402. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, 703–629–2818. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk, (1) between points in AL, TN, and VA, and; (2) between points in AL, TN, and VA, on the one hand, and, on the other, points in FL, GA, NC, and SC.

Note.—This application is republished to correct territorial description.

MC 128928 (Sub-110), filed November 29, 1982. Applicant: STEVENS TRANSPORTATION CO., INC., 121 South Niagara St., Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods,* between points in the U.S. (except ME, NH, and VT).

MC 139879 (Sub-5), filed November 29, 1982. Applicant: LASALLE CARTAGE CO., INC., 2707 Territorial Rd., St. Paul, MN 55114. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855. Transporting *chemicals and related products, petroleum, natural gas, and related products,* and *such commodities* as are used in the manufacture or distribution of fiberglass products, between points in Ramsey County, MN, on the one hand, and, on the other, points in IL.

MC 145058 (Sub-9), filed November 30, 1982. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in SC, on the one hand, and, on the other, points in MN, MO, AR, LA, TX, OK, KS, NE, MT, WY, CO, NM, AZ, UT, ID, WA, OR, CA, and NV.

MC 147028 (Sub-5), filed November 29, 1982. Applicant: MICHAEL L. GINEVRA TRUCKING, 1500 S. Zarzamora, Rm. 228, San Antonio, TX 78207. Representative: Greg P. Stefflre, 3620 Long Beach Blvd., C–11, Long Beach, CA 90807, (213) 595–0766. Transporting *general commodities,* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156488 (Sub-6), filed November 30, 1982. Applicant: CONTRANS, INC., 6716 Berger, Kansas City, KS 66111. Representative: Donald J. Quinn, Commerce Bank Bldg. 8901 State Line, Suite 232, Kansas City, MO 64114, 816–444–7474. Transporting *food and related products, paper products,* and *beverage containers* between points in AR, IA, IL, KS, MO, MN, ND, NE, OK, TX, and SD.

MC 160908, filed November 29, 1982. Applicant: TREADWAY TRUCKING, INC., P.O. Box 269, Oakman, AL 35579. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203–3668, (205) 251–2881. Transporting (1) *coal and coal products,* between points in Jefferson County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, (2) *lumber and wood products,* between points in AL, MS, LA, GA, and FL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (3) *metal products* and *machinery,* between Houston, TX, Birmingham, AL, and points in Walker County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 164868, filed November 23, 1982. Applicant: ARTHUR BUIE, d.b.a. ARTHUR BUIE TRUCKING COMPANY, 3017 Highlands Blvd. (P.O. Box 2150), Spring Valley, CA 92077. Representative: Arthur Buie (same address as applicant), 714–464–3709. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, NV, OR, and WA.

MC 164878, filed November 23, 1982. Applicant: GARY R. DANIELS, d.b.a. G. R. DANIELS TRUCKING, Rt. 3, Hutchinson, MN 55350. Representative: Gary R. Daniels (same address as applicant), (612) 587–4002. Transporting *machinery and machinery parts,* between points in McLeod County, MN, on the one hand, and, on the other, points in ND, SD, IA, WI, IL, and MN.

MC 164908, filed November 30, 1982. Applicant: INDIANA-KENTUCKY TRUCKING, INC., P.O. Box 371, Carrollton, KY 41008. Representative: Fred F. Bradley P.O. Box 773, Frankfort, KY 40602, 502–227–2254. Transporting *commodities in bulk,* between points in IN and KY, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the eastern boundary of Itasca County, MN, thence northward along the eastern boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34647 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carrige of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For

compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–232

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Chandler, Parker and Fortier.

MC 164990, filed December 2, 1982. Applicant: D & J TRANSPORTATION COMPANY, 308 Garfield Court, Fredericksburg, VA 22401. Representative: Lester R. Gutman, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006, (202) 828–5017. Transporting, *passengers,* in charter and special operations, beginning and ending at Fredericksburg, and points in Fauquier, Culpeper, Orange, Caroline, King George, Louisa, Spotsylvania, and Stafford Counties, VA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special operations.

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP2–325

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 55312 (Sub-19), filed December 7, 1982. Applicant: TRAILWAYS TENNESSEE LINES, INC., 327 Gayoso St., Memphis, TN 38103. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, 214–655–7037. Transporting, *passengers,* (1) between Dalton and Marietta, GA, from Dalton over unnumbered highway to junction Interstate Hwy 75, then over Interstate Hwy 75 to Marietta, and return over the same routes, (2) between Birmingham and Gadsden, AL, from Birmingham over Interstate Hwy 59 to junction U.S. hwy 278, then over U.S. Hwy 278 to Gadsden, and return over the same routes, and (3) between Louisville, KY, and Nashville, TN, over Interstate Hwy 65, serving all intermediate points in (1) thru (3) above.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Note.—Applicant may tack this authority with his existing authority.

MC 119262 (Sub-2), filed November 29, 1982. Applicant: ERNEST J. KELLER, JR., d.b.a. KELLERS BUS SERVICE, Rt. 1, Box 188C, Waldorf, MD 20601. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting, *passengers,* in charter and special operations, between points in the U.S. (Except HI, but including AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 120083 (Sub-11), filed December 8, 1982. Applicant: LINCOLN COACH LINES, 12681 Route 30 (P.O. Box 369), Irwin, PA 15642. Representative:S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, 717–232–8000. Transporting, *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 130223 (Sub-3), filed November 22, 1982. Applicant: PETER PAN WORLD TRAVEL, INC., 1778 Main St., Springfield, MA 01103. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting, *passengers,* in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148862 (Sub-3), filed November 26, 1982. Applicant: ANGELTOWN CHARTER LINES, INC., 3216 Westminster Blvd., Santa Ana, CA 92703. Representative: John M. Clark (same address as applicant), (714) 554–0412 Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155822, filed December 1, 1982. Applicant: BILL DEESE, d.b.a. DEESE COACH LINE, P.O. Box 388, Pembroke, NC 28372. Representative: Robert J. Brooke, 1828 L St., N.W., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164922, filed November 29, 1982. Applicant: PHANTOM CHARTER SERVICE, 2103 N. Central, Rockford, IL 61103. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 715–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI, but including AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164933, filed November 26, 1982. Applicant: K & G BUS TRANSPORTATION SERVICES, INC., d.b.a. WESTERN CHARTER TOURS, 67 Magnolia Ave., Petaluma, CA 94952. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415–986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164962, filed November 26, 1982. Applicant: INTERTRUCK CORPORATION, d.b.a. BELL'S CARGO, P.O. Box 374, 300 Roper Mountain Rd., Greenville, SC 29602. Representative: James E. Halbkat, Jr. (same address as applicant), 803–288–5639. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI)

MC 165053, filed December 6, 1982. Applicant: LONNIE M. SHAW, d.b.a. L AND C SHAW TRUCKING CO., 1755 Tierra Lynn Dr., P.O. Box 783, Woodburn, OR 97071. Representative: Lonnie M. Shaw (Same address as applicant) 503–982–3112. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 3, (202) 275–5223.

Volume No. OP3–53

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 74 (Sub-14), filed November 19, 1982. Applicant: VALLEY TRANSIT COMPANY, INC., P.O. Box 1870, Harlingen, TX 78551. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting *passengers*, in charter and special operations, beginning and ending at points in TX; and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 745 (Sub-2), filed December 2, 1982. Applicant: HAGEY'S BUS SERVICE, INC., P.O. Box 68, Franconia, PA 18924. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *passengers*, in special and charter operations, beginning and ending at points in Chester, Delaware, Lehigh, Berks, and Philadelphia Counties, PA, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 128798 (Sub-11), filed September 20, 1982. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Rd., Larchmont, NY 10538. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, 121–838–0600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Purex Corporation of Lakewood, CA.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 188–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC. 20036. (202) 466–3892. Transporting (1) *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 118–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC. 20036. (202) 466–3892. Over regular routes, transporting *passengers*, between Peoria, IL and Davenport, IA: (a) from Peoria over I–74 to Davenport, IA and (b) from Peoria over I–74 to the junction with U.S. Hwy 6, then over U.S. Hwy 6 to Davenport, and return over the same routes, serving all intermediate points and the off-route points of Galesburg and Rock Island, IL.

Note.—Applicant intends to tack this authority to its existing regular route authority.

Note.—Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 141294 (Sub-2), filed November 30, 1982. Applicant: GETTYSBURG TOURS, INC., 302 York St., Gettysburg, PA 17325. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111 Washington, D.C. 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144504 (Sub-2), filed December 3, 1982. Applicant: DELTA CHARTER SERVICE, INC., 4900 E. Mariposa, P.O. Box 5547, Stockton, CA 95205. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (414) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150365 (Sub-3), filed November 29, 1982. Applicant: UNITED LIMO, INC., 10844 McKinley Hwy., Osceola, IN 46561. Representative: Robert W. Loser II, Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *passengers*, in special and charter operations, beginning and ending at points in IN, MI, IL, and OH, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155665 (Sub-1), filed December 6, 1982. Applicant: COMFORT TRANSIT CO., INC., 224–20 Merrick Boulevard, Laurelton, NY 11413. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022, (212) 759–3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159595 (Sub-1), filed December 2, 1982. Applicant: DONALD B. FISHER AND EFFIE G. FISHER, 1715 Grace Ave., Lebanon, PA 17042. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164904, filed November 29, 1982. Applicant: BROCK BUS LINES, INC., 722

W. Wilson, Glendale, CA 91203. Representative: Donald R.Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in Los Angeles, Orange, San Bernardino, Riverside and Ventura Counties, CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164915, filed November 29, 1982. Applicant: MCCLAIN BUSES, 6284 Eisenhower Ct., Chino, CA 91710. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers*, in charter and special operations, btween points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164984, filed December 2, 1982. Applicant: KRAPF'S COACHES, INC., R.D. #5, Glen Moore, PA 19343. Representative: D. Mark Thomas, 212 Locust St., P.O. Box 999, Harrisburg, PA 17108, (717) 255–7600. Transporting *passengers*, in special and charter operations beginning and ending at points in Chester, Delaware, Montgomery, Berks and Lancaster Counties, PA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164994, filed December 3, 1982. Applicant: AL–JO BUS SERVICE, INC., 913 Fulton Street, Brooklyn, NY 11238. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165004, filed November 22, 1982. Applicant: ACADEMY BUS TOURS, INC., 1515 Jefferson Street, Hoboken, NJ 07030 Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022, (212) 759–3700. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application for common control to Team 3, Rm. 2158.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165005, filed December 3, 1982. Applicant: COASTAL BUS LINES, INC., 111 Main St., Acushnet, MA 02743. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165044, filed December 6, 1982. Applicant: BASSETT TRANSIT, INC., 1505 Sanford, Ave., Richland, WA 99352. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No. OP5–287

Decided: December 13, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

FF 79 (Sub-4), filed December 2, 1982. Applicant: WESTERN CARLOADING CO., INC., 960 East Third St., Los Angeles, CA 90013. Representative: S.S. Eisen, 370 Lexington Ave., New York, NY 10017, (212) 532–5100. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. Condition: Any permit issued in this proceeding is conditioned upon coincidental cancellation of Permit No. FF 79 Sub 3 issued August 30, 1982.

MC 1759 (Sub-45), filed December 3, 1982. Applicant: FROEHLICH TRANSPORTATION CO., INC., Federal Road, Danbury, CT 06810. Representative: Gerald A. Joseloff, 410 Asylum St., Suite 532, Hartford, CT 06103, (203) 728–0700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, VT, CT, MA, RI, NY, NJ, and PA.

MC 21958 (Sub-12), filed December 6, 1982. Applicant: STARCK VAN LINES, INC., RD #1, Burgettstown, PA 15021. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW Ste 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods*, between points in the U.S. (except AK, HI and ND.)

MC 41606 (Sub-6), filed December 6, 1982. Applicant: CORRIGAN MOVING & STORAGE CO., 2000 Westwood Avenue, Dearborn, MI 48124. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *household goods and furniture and fixtures*, between points in AL, AR, CO, CT, DE, DC, FL, GA, IA, IL, IN, KS, KY, LA, MA, MI, MD, ME, MO, MN, MS, NC, NE, NH, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI and WV.

MC 79658 (Sub-37), filed November 30, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812–424–2222. Transporting *household goods, office equipment, prototype and new show vehicles*, between points in the U.S. under continuing contract(s) with Ford Motor Company of Dearborn, MI.

MC 94068 (Sub-7), filed December 2, 1982. Applicant: POM-ARLEAU TRANSFER AND STORAGE, CORP., P.O. Box 1255, Wenatchee, WA 98801. Representative: Boyde Hartman, P.O. 3641, Bellevue, WA 98009, (206) 453–0312. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in WA, and (2) between points in Multnomah County, on the one hand, and, on the other, points in WA.

MC 117919 (Sub-3), filed december 6, 1982. Applicant: CORCORAN'S TRANSPORTATION, INC., 45 Bown Place, Westbury, CT 06702. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods*, (1) between points in ME, MA, NH, VT, RI, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, IL, IN, OH, WV, KY, TN, MS, MO, AL, LA, TX, and DC, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 156199 (Sub-1), filed December 6, 1982. Applicant: GRUDLE TRUCKING, INC., Rural Route 3, Glenwood, IA 51534. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712–255–3127). Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Victor's Iowa Pack, Inc., of Council Bluffs, IA.

MC 159849 (Sub-3), filed December 2, 1982. Applicant: DAYMARK FOODS, INC., d.b.a. ODISCO TRANSPORTATION, 500 West Main St., P.O. Box 1982, Suite 208, Russellville, AR 72801. Representative: Robert R. Harris, 1730 M St., NW Suite 501, Washington, D.C. 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163008, filed December 6, 1982. Applicant: W. RAY ODOM, Route 3, Williford Road, Pineville, LA 71360. Representative: W. Ray Odom (same address as applicant) (318) 640–1908. Transporting *bakery products*, between points in the U.S. under continuing contract(s) with Hardin's Bakeries Corp., of Meridian, MS.

MC 163789, filed December 24, 1982. Applicant: LCI TRUCKING CO., 1335 Darlington Ave., P.O. Box 2177, Upland, CA 91786. Representative: Jim Pitzer, 15 South Grady Way Suite 321, Renton, WA 98055, 206–235–1111. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AK, CA, OR, WA, AZ, UT, TX, KS, and PA, on the one hand, and, on the other, points in AK, AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA.

MC 164158 (Sub-1), filed December 2, 1982. Applicant: OMELIO ARMAS,760 N.W. 202 St. Miami, Fl 33169. Representative: Omelio Armas (same address as applicant), (305) 653–3524. Transporting *general commodities* except classes A and B explosives, household goods, and commodities in bulk), between points in Dade, Broward, and Palm Beach Counties, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164909, filed November 29, 1982. Applicant: ROSEHILL TRUCKING CO., INC., 5 Wagon Wheel Lane, P.O. Box F, Lincoln, RI 02865. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02108, 617–742–3530. Transporting *general commodities* (except classes A and B explosives, household goods, and commodites in bulk), between points in MA, RI, NC, TX, and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164918, filed November 30, 1982. Applicant: MAURICE FRIEDMAN, P.O. Box 43, Templeton, IA 51463. Representative: Richard D. Howe, 600 Hubbell Bldg, Des Moines, IA 50309, 515–244–2329. Transporting *beer*, between points in Carroll County, IA, on the one hand, and, on the other, Peoria, IL; St. Paul, MN, and Milwaukee, WI.

MC 164999, filed December 3, 1982. Applicant: BEACH, INC., 3320 Sixth Street, Bay City, TX 77414. Representative: Thomas F. Sedberry, P.O. Box 2023 (78768), 2600 Austin National Bank Tower, Austin, TX 78701, (512) 472–8355. Transporting *Mercer commodities*, between points in AR, CO, LA, KS, MS, NM, OK, TX and WY.

MC 165029, filed December 6, 1982. Applicant: DALE A. ZORMAN, P.O. Box 147, Remer, MN 56672. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *lumber and wood products and building materials*, between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34648 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP3–49]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 10, 1982.

The following applications are governed by 49 CFR 1160.1–1160.23 of the Commission's Rules of Practice. These rules were published in the **Federal Register** of December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 1, 1982. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1160.40–1160.49. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal of any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 3, (202) 275–5223.

MC 29904 (Sub-7), filed November 16, 1982. Applicant: SUDDATH VAN LINES, INC., P.O. Box 60069, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *household goods*, between points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI and DC.

Note: A grant of authority herein is conditioned upon an explanation by applicant of why the proposed operation is not proscribed by 49 U.S.C. 11323 which deals

with limitation on ownership of other carriers by freight forwarders.

MC 145767 Sub-17), filed November 15, 1982. Applicant: WIEST TRUCKLINE, INC., R.R. 2, Ext 57, I–94 West, Jamestown, ND 58401. Representative: Charles E. Johnson, 220 N. 4th St., P.O. Box 2056, Bismarck, ND 58502–2056, (701) 223–5300. Transporting *lumber, lumber products, lumber mill products, wood products, forest products,* and *building materials,* between those points in the U.S. in and west of NY, PA, WV, VA, NC, SC, GA, and FL (except AK and HI).

[FR Doc. 82–34650 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP2–324]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 15, 1982.

90-Day Intrastate Motor Common Carriers of Passengers

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a computer bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 2, (202) 275–7030.

MC 55312 (Sub-20), filed December 7, 1982. Applicant: TRAILWAYS TENNESSEE LINES, INC., 327 Gayoso Street, Memphis, TN 38103. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201 214 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC–55312 (Sub-No. 17), in part, as follows: over the entire route at part (2) extending between Bristol, TN and Roanoke, VA.

[FR Doc. 82–34651 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–31391 beginning on page 51807 in the issue of Wednesday, November 17, 1982, make the following correction:

On page 51809, third column, under MC 148279 (Sub-1), *Palletized Trucking, Inc.,* in the second line from the bottom of the page, "Arkansas" should have read "Aransas".

BILLING CODE: 1505–01–M

[Volume No. 309]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Correction

In FR Doc. 82–30991 beginning on page 51239 in the issue of Friday, November 12, 1982, make the following correction:

On page 51240, third column, under MC 144732 (Sub–6)X, the last seven lines of the paragraph should have read ". . . soda ash; (B) MC–144732 Sub 1F and 2F, "radial authority"; and (C) Lead MC–113635 and Sub 3, "between points in the U.S. (except AK and HI)", under continuing contract(s) with named and unnamed shippers; and (D) MC–144732, Sub 3, add authorization of "materials, equipment, and supplies" to the commodity description."

BILLING CODE: 1505–01–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-223

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 163527 (Sub-3-2TA), filed December 13, 1982. Applicant: R & J ASSOCIATES, INC., 131 Maplewood Avenue, Thomasville, NC 27360. Representative: Richard A. Hicks (same address as applicant). *Contract:* Irregular: *New Furniture* between Thomasville, NC, and Appomattox, VA on the one hand, and on the other, Albuquerque, NM, under continuing contract with Thomasville Furniture Industries, Inc., P.O. Box 339, 401 East Main Street, Thomasville, NC 27360. Supporting shipper: Thomasville Furniture Industries, Inc., P.O. Box 339, 401 East Main Street, Thomasville, NC 27360.

MC 47171 (Sub-3-18TA), filed December 13, 1982. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). *Contract:* Irregular: *Lumber, or wood products (except furniture)* between points in the U.S. (except AK & HI). Supporting shipper: Continental Forest Industries, P.O. Box 8969, Savannah, GA 31412.

MC 144026 (Sub-3-9TA), filed December 13, 1982. Applicant: WILLIAMS CARTAGE COMPANY, INC., P. O. Box 897, Hartsville, SC 29550. Representative: Robert L. McGeorge, Esq., 1000 Potomac Street NW.; Ste. 501, Washington, D.C. 20007. *Contract; irregular General commodities (except Classes A & B explosives and hazardous materials),* between points in the U.S. (except AK and HI) under continuing contract(s) with National Wire Products Corp. of Baltimore, MD. Supporting shipper: National Wire Products Corporation, 8203 Fischer Rd., Baltimore, MD 21222.

MC 164665 (Sub-3-1TA), filed December 13, 1982. Applicant: MARKETING UNLIMITED, INC, d.b.a. WAGON WHEEL FREIGHT, INC., 2911 8th Ave., Chattanooga, TN 37407. Representative: Charles E. Akins (same as above). *General commodities, except in bulk and tank vehicles,* between points in TN, GA, AL, MS, FL, SC, NC, VA, WV, KY, OH, NJ, NY, MO, IN, WI, PA and IL. Supporting shippers: Hartford Carpet Mills, Inc., 2913 8th Ave., Chattanooga, TN 37407; C&S Distributing Co., 2911—8th Ave., Chattanooga, TN 37404; Mid South Freight Line, Inc., 2901 Watauga Ave., Chattanooga, TN 37404; and Red Food Stores, 5901 Shallowford Rd., Chattanooga, TN 37404.

MC 126542 (Sub-3-11TA), filed December 13, 1982. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201.Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984. *Contract Carrier,* Irregular routes, *Metal and Plastic Articles* between all points in the U.S. except AK and HI under continuing contract with Hager Hinge Manufacturing Co., Inc. Supporting shipper: Hager Hinge Manufacturing Co., Inc., Hwy. 78W, P.O. Box 3288, Oxford, AL 36203.

MC 164860 (Sub-3-1TA), filed December 13, 1982. Applicant: MEL T. COWART and BILLY R. COWART d.b.a. COWARTS, DRIVE AWAY SERVICE, 3750 Beach Boulevard, Jacksonville, FL 32207. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Automobiles, in driveaway service,* from Jacksonville, FL to Atlanta, GA, Dothan, AL, Decatur, GA, Knoxville, TN, Summerville, SC, Hilton, SC and Athens, GA. There are seven supporting shippers. Their statements may be examined at the ICC Regional Office, Atlanta, GA.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 162259 (Sub-6-2TA), filed December 14, 1982. Applicant: D.E.L.L. TRUCKING, INC., P.O. Box 1230, Fort Morgan, CO 80701. Representative: Charles J. Kimball, 1600 Sherman St., Suite 665, Denver, CO 80203. *Contract carrier,* irregular routes, *oilfield casing and tubing* (1) from Long Beach, CA and Houston, TX and points in their commercial zones to facilities of D.E.L.L. Trucking, Inc. in Morgan County, CO, (2) from the facilities of D.E.L.L. Trucking, Inc. in Morgan County, CO to points in Weld County, CO, and (3) between the facilities of D.E.L.L. Trucking, Inc. in Morgan County, CO, on the one hand, and, on the other, Kimball, NE and points in its commercial zone. Under a continuing contract or contracts with Avery Sales, Inc. for 270 days. Supporting shipper: Avery Sales, Inc., Box 2861, Dillon CO 80435.

MC 41098 (Sub-6-14TA), filed December 13, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *general commodities* (except class A and B explosives and commodities in bulk), between points in the U.S. under continuing contract(s) with Honeywell, Inc. of Minneapolis, MN for 270 days. Supporting shipper: Honeywell, Inc., Honeywell Plaza, Minneapolis, MN 55408.

MC 165175 (Sub-6-1TA), filed December 13, 1982. Applicant: GOLD BOND BUILDING PRODUCTS, 800 West Church St., Stockton, CA 95203. Representative: Arden Riess, P.O. Box 7965, Stockton, CA 95207. *Building materials; Pulp, paper and related articles; clay, concrete, glass and stone products,* except for commodities in bulk, between points in CA, ID OR and WA, for 270 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional Office listed.

MC 138069 (Sub-6-11TA), filed December 13, 1982. Applicant: LUCIOUS, INC., 8331 Pontiac, Commerce City, CO 80022. Representative: Lester G. Huskey (same as applicant). *Toys and Games,* From points in MI to points in CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Circus World Toy Stores, Inc., 21150 Trolley Industrial Dr., Taylor, MI 48180.

MC 165174 (Sub-6-1TA), filed December 12, 1982. Applicant: G. MALAKOFF & SONS TRANSPORT LTD., 2304 Bedford Avenue East, Regina, Saskatchewan, CD S4N OG9. Respresentative: Garry Malakoff (same as applicant). *Contract,* irregular; *Emulsified asphalt and asphalt in tank vehicles,* from Saskatchewan/North Dakota Border to all points in ND; and from Saskatchewan/Montana Border to all points in MT for 270 days. Supporting shipper: Chevron Asphalt Ltd., 1210 Sheppard Ave., Willowdale, Ontairo, Canada

MC 161238 (Sub-6-2TA), filed December 13, 1982. Applicant: SUNRISE TRUCKING LTD., 8705 163 Street,

Edmonton, Alberta T5R 2N7. Representative: Patricia Garwasiuk (same as applicant). Contract; irregular, *Plastic greenhouse film,* between the Alberta, CD and the U.S. international boundary and between the British Columbia and the U.S. international boundary to WA, OR and CA under continuing contract with C.I.L. Inc. of Edmonton Alberta, CD., for 270 days. Supporting shipper: C.I.L. Inc., 800 Terminal Avenue, Vancouver, B.C. V6A 2M8.

MC 151878 (Sub-6–8TA), filed December 13, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., N.W., Suite 800, Washington, D.C. 20036 *Contract,* irregular, *General commodities (except Classes A and B explosive and commodities in bulk)* between points in the U.S. under continuing contract with Hewlett Packard, for 270 days. Supporting shipper: Hewlett Packard, 11311 Chinden Blvd, Boise, ID 83707.

Agatha L Mergenovich,

Secretary.

[FR Doc. 82–34686 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Exemptions for Contract Tariffs Denver, & Rio Grande Western Railroad Co.;

AGENCY: Interstate Commerce Commission

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due January 6, 1983.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278

or

Tom Smerdon, (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions: These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
478	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0074, (Brick)	2	12–15–82
479	Soo Line Railroad Co., ICC-SOO-C-0137, (Sheet, iron or steel, in coils)	3	12–14–82

[1] Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34532 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15017]

Integrated Transportation Systems, Inc.—Common Control Exemption—Multitrans, Inc. and Jones Motor Co., Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Integrated Transportation Systems, Inc., (Integrated), and in turn, Donald R. Sheehy, Dennis C. Papa, and James J. Koegel, who jointly control Integrated and who also control New Trans, Inc., which owns all of the stock of Jones Motor Co., Inc., a regulated motor carrier (No. MC–4963), seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of Multi Trans, Inc., a regulated motor carrier (No. MC–160611).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC. 20423; and (2) Petitioner's Representative, Robert C. Bamford, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Comments should refer to No. MC–F–15017.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 16, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34654 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approval of Railroad Cost Index and Rail Cost Adjustment Factor.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Docket Ex Parte No. 290 (Sub-2), *Railroad Cost Recovery Procedures.* In accordance with the provisions of 49 U.S.C. 10707a(a) the denominator of the RCAF has been restated to 120.9 for the quarter beginning October 1, 1982. The application of the index provides for a maximum increase of 1.0 percent above the level prescribed in our decision served December 22, 1981. Because the index for the second, third and fourth quarters of 1982 declined from the first quarter level, no rate actions were ordered in our decisions served March 25, 1982, June 24, 1982 and September 24, 1982.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Robert C. Hasek, (202) 275–0938, Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981) we outlined procedures for the calculaton of the interim Mid-Quarter Index of railroad costs and the methodology for computation of the Rail Cost Adjustment Factor (RCAF). AAR was required to

calculate and submit the Mid-Quarter Index to the Commission no later than 20 days before the end of each quarter.

We have reviewed AAR's calculations of this Mid-Quarter Index and find that they comply with the guidelines contained in our decision served April 17, 1981.

The Staggers Rail Act of 1980 (49 U.S.C. 10707a(2)(B)) requires that the denominator of the RCAF be rebased in the fourth quarter of 1982 and for the fourth quarter of every fifth year thereafter, as appropriate.

AAR, in filing this RACF, proposed that the Commission adopt the first quarter 1982 forecasted index as the appropriate rebased denominator for the fourth quarter of 1982 (beginning October 1, 1982) in order to preclude any claims of excessive cost recovery. They note that if the fourth quarter 1982 RCAF denominator of 119.0 had been used rather than the 120.9 first quarter 1982 denominator, a 2.6 percent increase could have been permitted.

We agree with the AAR that the appropriate RCAF denominator to be used in determining the new base rate for the fourth quarter of 1982 should be 120.9. Although a literal reading of Section 10707a(a) would seem to dictate a denominator of 119.0, we do not believe that such a literal reading would achieve the Congressional intent—which was merely to allow rail carriers quickly to recoup increased costs without challenge. For example, the Senate Commerce Committee Report specified that the provision "* * * will help assure that rail rates reflect a carrier's current costs * * *" by providing "* * * a zone of rate freedom *not in excess* of the carriers increased costs * * *" (Report No. 96–470, December 7, 1979, at pages 19–20. Emphasis added). The railroads' proposal is consistent with this, and produces a fair and equitable result which prevents a windfall profit which would result if the provision is literally construed. We note that the court in *Western Coal Traffic League* vs. *United States*, 677 F.2d 915, 925 (D.C. Cir. 1982) stated: "We agree with the shippers that the principal function of the Section 203 [section 10707a] inflationary cost index is to provide a mechanism for *recovering inflation based costs, not to enhance revenues*" (emphasis added).

Adopting 120.9 as the new base rate denominator is also consistent with our previous commitment set fourth in our decision of April 18, 1982, where we adopted a forecasting approach and state "* * * to avoid the possibility of cumulative forecasting error, we will require that, for each quarter, the allowable percentage increase be calculated on the basis of the forecasted, rather than actual cost increases from the previous quarter. This prevents any party from benefitting or being penalized by a forecast error when the net change for the next quarter is calculated * * *". [1] Likewise, our decision herein prevents the rail carriers from benefitting from a decline in their costs after they had previously been permitted to raise their rates to a level based on higher costs. We do not believe this situation was foreseen at the time of enactment of section 10707a, and thus are construing the section to achieve what we believe was intended by it.

We have reviewed AAR's calculations of the Mid-Quarter Index for the first quarter of 1983 and find that these calculations comply with the guidelines contained in our decisions served April 17, 1981.

INTERIM MID-QUARTER INDEX

Line No.	Category	1980 weight	3d quarter 1982 actual	4th quarter 1982 forecast	Rebased 4th quarter 1982 forecast	1st quarter 1983 forecast
1	Salaries, Wages and Supplements	47.2	128.6	128.5	XXX	134.4
2	Fuel	12.3	115.0	111.7	XXX	114.9
3	Materials and Supplies	12.2	108.1	107.9	XXX	105.5
4	Other Expenses	28.3	111.7	111.2	XXX	111.8
5	1980=100		119.6	[1]119.0	[1]120.9	122.1
6	10/1/80=100 [2] (Rail Cost Adjustment Factor)		116.5	115.9	117.7	118.9

[1] 119.0 was the index forecast for the fourth quarter of 1982. This figure has been restated to 120.9 in accordance with 49 U.S.C. 10707a(a)(2)(B) and is now the rebased index for the fourth quarter 1982. (Quarter Beginning October 1, 1982.)
[2] Weighted Average 10/1/80=102.7.

Based on the above figures we conclude that the RACF for the first quarter of 1983 is 1.010. This is determined by dividing the first quarter 1983 forecast index (122.1) by the rebased fourth quarter 1982 index (120.9). Application of this index figure provides for a maximum increase of 1.00 percent above levels prescribed in our decision served December 22, 1981.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although this proceeding is not subject to Public Law 96–354, it is our opinion that it will not have significant adverse impact on a substantial number of small entities.

(49 U.S.C. 10321, 10707a, 5 U.S.C. 553)

Dated: December 16, 1982.

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

Agatha L. Mergenovich.

Secretary.

[FR Doc. 82–34652 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

Rerouting Traffic; Amendment No. 2 to Third Revised I.C.C. Order No. 82 Under Service Order No. 1344

To: The Baltimore and Ohio Railroad Company; The Chesapeake and Ohio Railway Company; Norfolk and Western Railway Company; Green Bay and Western Railroad Company; Chicago and North Western Transportation Company; Soo Line Railroad Company; and GranD Trunk Western Railroad Company.

Upon further consideration of I.C.C. Order No. 82 and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 82 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., June 30, 1983, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., December 31, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 15, 1982.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82–34646 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[1] 364 I.C.C. 850.

DEPARTMENT OF JUSTICE

Office of Legal Policy

Federal Justice Research Program; Notice of Solicitation

The Federal Justice Research Program (FJRP) is a departmental program for conducting research relating to the administration of civil and criminal justice in the United States.

Feasibility of Shared Concurrent State/Federal Administration of Prison Facilities

The Federal Justice Research Program announces a competitive grant solicitation to research and investigate alternative approaches which could be undertaken to achieve shared federal/state planning, financing, administration and operation of prison facilities. As the financial resources of government have become more limited while the need for additional prison facilities to house convicted dangerous offenders has increased, government officials and planners have developed interest in connection of multi-jurisdictional prison facilities. Thus far this interest has been confined to multi-jurisdictional jail facilities serving the joint needs of city/county, county/county, and, in one instance, a bi-state, bi-county, bi-city facility located in Texarkana, Arkansas/Texas.

In general, three approaches to planning, building and administering multi/jurisdictional prison facilities have emerged. Under the first approach, each involved jurisdiction participates in the planning, financing and construction of the facility. Upon completion, one jurisdiction is designated to administer and operate the facility. Under the second approach, one jurisdiction plans, finances, constructs, operates and administers a facility then, through contract for service offers the use of the facility to other jurisdictions on the basis of negotiated fees. Under the last approach, implemented to support the Texarkana Bi-state Criminal Justice Center, involves shared, concurrent jurisdiction in the planning, financing, construction and operation and administration of a multi-jurisdictional jail facility.

We invite submission of proposals to research the feasibility of shared concurrent state/federal administration of prison facilities.

Issues to be addressed in this study include:

a. Can the shared, concurrent state/federal administration of prisons be a viable policy alternative?

b. Can the shared, concurrent state/federal administration of prisons be a cost effective alternative? Are there other options which are more cost effective?

c. How can the management, organizational structure and ownership for the shared, concurrent state/federal administration of prison be established to meet legal and procedural needs of state and federal government?

d. How could planning, construction, maintenance and operation costs be shared?

e. What model or models of state and federal legislation could enable the establishing and managing of a shared, concurrently administered state/federal prison facility?

f. What type of offenders should be housed in such facilities?

Deadlines

All papers postmarked before midnight January 25, 1983, and received by the FJRP within ten (10) working days after that date will be considered. Submissions received after this prescribed period will be returned to the submitters.

Level and Duration of Funding

This announcement envisions a grant award not to exceed $100,000 with an expected duration of ten (10) months.

Eligibility

Eligible applicants include: universities, agencies involved in the criminal justice process, other not-for-profit research organizations, and profit-making organizations that are willing to waive their fee or profit.

Application Requirements and Procedures

Parties interested in responding to this solicitation should prepare and submit a proposal (not to exceed 15 double-space typewritten pages) which should include:

(1) A 150–200 word abstract summarizing the proposed research design and methodology.

(2) A clear, concise statement of the issues surrounding the problem area and of the research hypotheses or questions to be explored. A discussion of the relationship of the proposed work to the existing literature is also expected.

(3) A detailed statement of the proposed research design and analytical methodologies. Delineate carefully and completely the proposed data sources, data collection strategies, variables to be examined, and procedures of analysis to be employed.

(4) the organization and management plan to conduct the study. Include a list of major milestones of events, activities and products and a timetable for completion, including the time commitments of key staff to individual project tasks.

(5) The anticipated number and type of interim and/or final products of the project.

(6) A budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and overhead. Percentage of time and man-months of effort to be devoted by principal staff should also be included.

(7) A statement of the competence of the research team, indicating the variety of skills to be used, a description of the relevant research experience, educational background, and the demonstrated ability to produce a final product that is readily comprehensible and usable. Include resumes of all known staff.

Seven (7) copies of the proposals should be submitted to: Federal Justice Research Program, 10th and Constitution Avenue, N.W., Room 4237, Washington, D.C. 20530.

Selection Process

Notification: Applicants will receive a letter acknowledging receipt of the submission.

Review: A panel of reviewers with expertise in the subject area will evaluate the proposals submitted. Based on the criteria set forth below, this panel will then recommend proposals that the Assistant Attorney General, Office of Legal Policy, may consider for award.

Criteria for Review of Proposals

Proposals will be assessed according to the following criteria:

(1) *Conceptualization of the Problem:* Demonstration of the applicant's firm grasp of the issues underlying the problem area including ongoing and past relevant research. (40%)

(2) *Soundness of Research Design and Methodology:* The design and methodology for the proposed study in terms of clarity, specificity, appropriateness and feasibility. (40%)

3. *Qualifications of the Applicant:* The competence of the research team, the appropriateness of the proposed combination skills, its prior relevant research experience, the demonstrated ability to produce a final product which is readily comprehensive and usable, adequacy of the time commitment of key staff, and the quality and specificity of the organization and management plan to accomplish the proposed project. (15%)

(5) *Costs:* The reasonableness of cost estimates and personnel allocations,

and the appropriateness of the costs to the expected products. (5%)

Contact Helen Shaw, Administrator of the Federal Justice Research Program (202) 633–2034 if you have any questions concerning this request for solicitations.

Dated: December 17, 1982.

Jonathan C. Rose,

Assistant Attorney General, Office of Legal Policy.

[FR Doc. 82-34661 Filed 12-21-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB guidelines, NSF is posting this notice of recordkeeping requirements that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357–7580.

OMB Officer: Gwendolyn Pla, (202) 395–7313.

Title: 1984 Survey of Science and Engineering Graduates.

Affected Public: Scientists and Engineers.

Number of Responses: 21,350; total number of hours 5,383.

The information provided by this Survey will enable the NSF to comply with the Legislative Requirement to collect information about Scientific and Technical Personnel which can be used in policy and planning activity by government agencies, private industry, educational institutions, and others.

Title: National Survey of Academic Research Instruments and Instrumentation Needs.

Affected Public: Individuals or households, businesses or other institutions.

Number of Responses: 5,320, total number of hours 1,233.

This study will develop measures of the current, stock, utilization, and requirements for scientific research instrumentation in doctorate-granting institutions. The development of these baseline measures is requisite to assessing the state of and need for equipment in science and engineering fields.

Title: Survey of Graduate Science and Engineering Students and Postdoctorates, Fall 83, 84, and 85.

Affected Public: Science/engineering departments with graduate degree programs in institutions of higher education.

Number of Responses: 10,000, number of hours 19,000.

The Survey is the only source on National statistics on graduate student and postdoctorate support and characteristics of faculty employed in graduate science/engineering (S/E) programs. Data are used by agencies, State Education Board, professional societies, and institutions of higher education in monitoring S/E educational progress and in planning to meet future S/E personnel needs.

Herman G. Fleming,

Clearance Officer.

[FR Doc. 82-34619 Filed 12-21-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published November 17, 1982 (47 FR 51832). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the January 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267. ATTN: Barbara Jo White) between 8:15 and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Class 9 Accidents,* December 21, 1982, Washington, DC. The Subcommittee will meet with the NRC Staff to discuss the NRC Safety Research Program for fiscal years 1984 and 1985. Notice of this meeting was published December 2.

**Electrical Systems,* December 22, 1982, Washington, DC. The Subcommittee will discuss the NRC-sponsored Safety Research Programs and the proposed budget for fiscal years 1984 and 1985 in the area of electrical systems. Notices of this meeting were published November 30 and December 8.

**Regulatory Activities,* January 4, 1983, Washington, DC. The Subcommittee will discuss proposed Revision 3 to Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident," and the proposed Regulatory Guide (Task No. IC 126–5), "Instrument Sensing Lines."

**Generic Items,* January 5, 1983, Washington, DC. The Subcommittee will discuss the methodology used by the NRC Staff in prioritizing the generic safety issues.

**Safety Research Program,* January 5, 1983, Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for fiscal years 1984 and 1985; the impact of proposed budget reductions on certain research program; and Draft 2 of the Annual ACRS Report to the Congress on this matter.

**Regulatory Policy and Procedures,* January 13 and 14, 1983, Washington, DC. The Subcommittee will continue to review the matter of regulatory reform.

**Skagit,* January 17 and 18, 1983, Richland, WA. The Subcommittee will review the application of the Puget Sound Power and Light Company for a construction permit.

**Clinch River Breeder Reactor (CRBR),* January 20 and 21, 1983, Washington, DC. The Subcommittee will continue the review of the CRBR plant design.

**Class 9 Accidents,* January 21, 1982, Washington, DC. The Subcommittee will review the severe fuel damage research program.

**Decay Heat Removal,* January 27, 1983, Washington, DC. The Subcommittee will discuss the merits and problems associated with primary system depressurization (feed and bleed) and secondary system depressurization for decay heat removal.

**Joint Metal Components and Three Mile Island (TMI) Unit 1,* January 28, 1983, Washington, DC. The Subcommittee will review the Steam Generator Generic Recommendation Report and the TMI–1 steam generator problems and fixes.

**Reactor Radiological Effect,* Date to be determined (January, Tentative), Washington, DC. The Subcommittee will review the Shippingport decommissioning.

**Safety Research Program,* February 9, 1983, Washington, DC. The Subcommittee will discuss the final draft of the ACRS Report to Congress on the NRC Safety Research Program for fiscal years 1984 and 1985.

**Emergency Core Cooling System (ECCS),* February 17 and 18, 1983, San Jose, CA. The Subcommittee will continue the review of the General Electric SAFER/GESTER ECCS Licensing Code.

**Class 9 Accidents and Reactor Radiological Effects,* February 22, 1983, Washington, D.C. The Subcommittee will discuss the research program being proposed and conducted to confirm and verify the existing or a new radiation source term for severe accidents.

**Combination of Dynamic Loads,* Date to be determined (February, Tentative), Washington, DC. The Subcommittee will review the status of work being done on the combination of dynamic loads.

**Metal Components,* Date to be determined (February, Tentative), Washington, DC. The Subcommittee will review the elimination of the double-ended pipe break criteria for the design of pipe whip supports.

**Metal Components,* Date to be determined (February, Tentative), Washington, DC. The Subcommittee will review the NRC action plan on integrity of steel bolts.

**GE Water Reactors/Westinghouse Water Reactors/Safeguards and Security,* Date to be determined (April, Tentative), Washington, DC. The Subcommittee will discuss applications for Final Design Approvals (FDA) by General Electric and preliminary design information for the Westinghouse advanced pressurized water reactor (APWR).

**Reactor Operations,* Date to be determined, Washington, DC. The Subcommittee will review generic PWR procedures used to prevent a Presssurized Thermal Shock (PTS) transient and to review proposed rule, 10 CFR 50.54, "Applicability of License Conditions and Technical Specifications in an Emergency."

**Catawba,* Date to be determined, Rock Hill, SC. The Subcommittee will review the application of the Duke Power Company for an operating license.

**Clinch River Breeder Reactor (CRBR) Working Group on Thermal Hydraulic Design,* Date to be determined, Washington, DC. The Subcommittee will continue the review of the CRBR thermal hydraulic design.

**Seabrook 1,* Date and location to be determined. The Subcommittee will review the application of the Public Service Company of New Hampshire for an operating license.

ACRS Full Committee Meeting

January 6–8, 1983: Items are *tentatively* scheduled.

*A. *Clinch River Breeder Reactor*—Construction Permit (partial review).

*B. *NRC Reactor Safety Research Program and Budget*—Annual ACRS Report to the U.S. Congress.

*C. *Seismic Design of Nuclear Facilities*—Proposed ACRS report regarding seismic design margins.

*D. *Auxiliary Feedwater Systems*—Briefing regarding status of program to seismically upgrade auxiliary feedwater systems in nuclear power plants.

*E. *Control Room Habitability*—Briefing in response to ACRS report of August 18, 1982.

*F. *Hydraulic Control Unit (HCU) Line Integrity*—Briefing regarding vulnerability of control rod drive HCU line to disabling damage from LOCAs.

*G. *Future Schedule and Activities of ACRS Members*—Discuss proposed schedule and scope of Committee, Subcommittee and Members activities.

*H. *NRC Regulations and Regulatory Guides*—Discuss proposed changes in NRC Regulatory Guides and Regulations.

February 10–12, 1983—Agenda to be announced.

March 10–12, 1983—Agenda to be announced.

Dated: December 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-34589 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Addition

The ACRS Subcommittee on Classs-9 Accidents may close a portion of the meeting scheduled for December 21, 1982, Room 1046 at 1717 H Street, NW, Washington, DC in order to ensure the security of information identified and supplied by foreign governments in confidence (Sunshine Act Exemption 4).

All other items regarding this meeting remain the same as published on Thursday, December 2, 1982 (47 FR 54375).

I have determined, in accordance with Subsection 10(d) of the Federal advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect information supplied by a foreign government. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: December 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-34590 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Generic Items; Notice of Meeting

The ACRS Subcommittee on Generic Items will hold a meeting on January 5, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the methodology used by the NRC Staff in prioritizing the generic safety issues.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.The agenda for subject meeting shall be as follows:

Wednesday, January 5, 1983–8:00 a.m. until 9:00 a.m.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hold discussions with reqresentatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 14, 1982.

Samuel J. Chilk,

(Acting) Advisory Committee Management Officer.

[FR Doc 82-34588 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold a meeting on January 4, 1983 in Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Tuesday, January 4, 1983—8:45 a.m. until the conclusion of business*

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

1. Proposed Revision 3 to Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident."

2. Proposed Regulatory Guide (Task No. IC 126-5), "Instrument Sensing Lines."

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guide 1.97, Revision 3, and Regulatory Guide on Instrument Sensing Lines, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to ensure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Sam Duraiswamy, the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, DC 20555 or telecopy them to the Designated Federal Employee (202/634-3319) as far in advance of the meeting as practicable. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW, Washington, DC 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Sam Duraiswamy, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 14, 1982.

Samuel J. Chilk,

(Acting) Advisory Committee Management Officer.

[FR Doc. 82-34587 Filed 12-21-82; 8:45 am]

BILLING CODE 759-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on Safety Research Program will hold a meeting on January 5, 1983, in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for FY year 1984 and 1985; the impact of proposed budget reductions on continuing and proposed research contracts; and Draft 2 of the Annual ACRS Report to the Congress on the related matter.

The entire meeting will be closed (Sunshine Act Exemption (9)b). Such a discussion, if held in public session, might result in the premature disclosure of information which would in turn frustrate the Commission's ability to implement the affected programs effectively.

I have determined, in accordance with Subsection 10(d) Pub. L. 92-463 that it may be necessary to close the meeting as noted above to discuss preliminary information the release of which would be likely to significantly frustrate the Committee in the performance of its statutory function (Exemption (9)b). The authority for such closure is Exemption (9)b to the Sunshine Act, 5 U.S.C. 552b(c)(9)b.

Dated: December 14, 1982.

Samuel. J. Chilk,

(Acting) Advisory Committee Management Officer.

[FR Doc. 82-34591 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-313 and 50-368]

Arkansas Power and Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-51 and NPF-6, issued to Arkansas Power & Light Company (the licensee), for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (ANO-1 and ANO-2), located in Pope County, Arkansas.

In accordance with the licensee's application for amendments dated November 5, 1982, the amendments would permit the expansion of the spent fuel storage capacity for ANO-1 and ANO-2. This expansion would be accomplished by replacing the existing spent fuel storage racks with new high density storage racks. Reracking the spent fuel pools would increase the ANO-1 pool storage capacity from 589 spaces to approximately 968 spaces and the ANO-2 pool storage capacity from 485 spaces to approximately 988 spaces.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By January 20, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a

notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (In Missouri (800) 342–5700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: (petitioner's name and telephone number); (date petition was mailed); (ANO1&2); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Nicholas S. Reynolds, Debevoise & Liberman, 1200 17th Street, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated November 5, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Arkansas Tech University, Russellville, Arkansas.

Dated at Bethesda, Maryland, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No.4, Division of Licensing.

[FR Doc. 82–34592 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–313 and 50–368]

Arkansas Power and Light Co., Arkansas Nuclear One, Units Nos. 1 and 2; Order for Modification of Licenses

I

Arkansas Power and Light Company (the licensee) holds Facility Operating Licenses Nos. DPR–51 and NPF–6, which authorize the licensee to operate the Arkansas Nuclear One, Units Nos. 1 and 2 (the facilities) at power levels not in excess of 2568 megawatts thermal for Unit No. 1 and 2815 megawatts thermal for Unit No. 2. The facilities consist of pressurized water reactor (PWRs) located at the licensee's site in Pope County, Arkansas.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Order issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a

subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as stream generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exit thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating Licenses Nos. DPR–51 and NPF–6 are modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. the licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A

Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____
Docket No. _____
Operated by: _____

The following items for review are taken from NUREG–0737, pp II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. a final design description of additional instrumentation and displays;			
b. detailed description of existing instrumentation systems.			
c. description of completed or planned modifications.			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1.			
3. Description of tests planned and results of tests completed for evaluation, qualifications, and calibration of additional instrumentation.			
4. Provide a table or description covering the evaluation of conformance with NUREG–0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)*			
5. Describe computer, software and display functions associated with ICC monitoring in the plant.			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays.			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used ot develop procedures.			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented.			
9. Provide a schedule for additional submittals required**			

*II.F.2 Attachment 1 (for Core Exit Thermocouples)

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.

2. Provide a description of the primary operator displays including:

a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CFT display.

b. Provide the range of the readouts.

c. Describe the alarm system.

d. Describe how the ICC instrumentation readouts are arranged with respect to each other.

3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.

4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.

5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG–0737, Attachment 1 and Appendix B, or identify and justify deviations.

6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.

7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG–0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

**For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82–34593 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revises the license of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility), located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment removes the three EFPM limit of operation during cycle 9 operations.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commissions rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated July 13, 1982, as supplemented September 24, 1982, (2) Amendment No. 73 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission't Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of December 1982.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-34594 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-247 and 50-3]

Consolidated Edison Co. of New York, Inc.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Provisional Operating License No. DPR-5 for the Indian Point Nuclear Generating Unit No. 1 and Amendment No. 82 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee) which revised Technical Specifications and the Facility Operating License No. DPR-26 for operation of the Indian Point Nuclear Generating Unit No. 2 (the facilities) located in Buchanan, Westchester County, New York. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications by modifications to the Facility Organization Structure; containment isolation valves testing requirements; and redesign of the snubbers support systems of certain safety-related pipe lines. Facility Operating License No. DPR-26 is also modified by the deletion of License Condition 2.D.(1) concerning steam generator inspections.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in these license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) The application for amendments dated August 31, 1982, (2) Amendment No. 31 to Provisional Operating License No. DPR-5, (3) Amendment No. 82 to License No. DPR-26, and (4) the Commission's related Saftey Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 11th day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-34595 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR 50.54(x), Fitness for Duty.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC Licensees.

6. An estimate of the number of responses: 80.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 105,600.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC is proposing to amend its regulations to regulate fitness for duty for personnel with unescorted access to protected areas. Specific procedures are to be established to prevent access to those individuals under influence of alcohol or drugs or otherwise unfit for duty due to mental or temporary physical impairments that could affect their performance.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson Hill, (202) 395-6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Md., this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-34805 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of

a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, MS 146-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Design, Installation, and Inspection of Seepage Control Liners at Uranium Recovery Facilities" and is intended for Division 3, "Fuels and Materials Facilities." The guide is being developed to describe engineering practices acceptable to the NRC staff for the design, installation, and inspection of liners that control the seepage of toxic materials from tailings and evaporation ponds at uranium recovery facilities.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by February 14, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) Items for inclusion in guides currently being developed; or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 14th day of December 1982.

For the Nuclear Regulatory Commission.

G. A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 82-34606 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co. (Oconee Nuclear Station, Units Nos. 1, 2 and 3); Order for Modification of Licenses

I

Duke Power Company (the licensee) holds Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, which authorize the licensee to operate the Oconee Nuclear Station, Units 1, 2 and 3 (the facilities), at power levels not in excess of 2568 megawatts thermal for each unit. The facilities consist of pressurized water reactors (PWRs) located at the licensee's site in Oconee County, South Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG-0737, *Clarification of TMI Action Plan Requirements,* the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exit thermocouple systems and subcooling margin monitors designed in accordance with NUREG-0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the

NRC Staff review of these generic systems are reported in NUREG/CR-2627 and NUREG/CR-2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG-0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55 are modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG-0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 Days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of confromance of all components of the ICC instrumentation system with NUREG-0737, Item II.F.2, and submit a report on the status of such conformance. For your Convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2—3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150-0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____ Docket No. _____

Operated by: _____

_____

_____

The following items for review are taken from NUREG-0737, pp. II.F.2-3, and 4. Responses should be made to full requirements in NUREG-0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG-0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be identified by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. A final design description of additional instrumentation and displays			
b. detailed description of existing instrumentation systems			

	Reference	Deviations	Schedule
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for evaluation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG-0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)*			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modfied when final monitoring system is implemented			
9. Provide a schedule for additional submittals required **			

*** II.F.2 Attachment 1 (for Core Exit Thermocouples)**

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.

2. Provide a description of the primary operator displays including:

a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display.

b. Provide the range of the readouts.

c. Describe the alarm system.

d. Describe how the ICC instrumentation readouts are arranged with respect to each other.

3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.

4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.

5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG-0737, Attachment 1 and Appendix B, or identify and justify deviations.

6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.

7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG-0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

** For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor effect the ability of the system to detect an approach to ICC?		

[FR Doc. 82-34596 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al. (Crystal River Unit No. 3 Nuclear Generating Plant); Order for Modification of License

The Florida Power Corporation (the licensee) and eleven other co-owners hold Facility Operating License No. DPR-72, which authorizes the licensee to operate the Crystal River Unit No. 3 Nuclear-Generating Plant (the facility) at power levels not in excess of 2544 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Citrus County, Florida.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exist thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG-0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose

the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exist thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating License No. DPR–72 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tacking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing, detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C, 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and

Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____
Docket No. _____
Operated by: _____

The following items for review are taken from NUREG–0737, pp II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labeled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labeled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. a final design description of additional instrumentation and displays			
b. detailed description of existing instrumentation systems			
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for evaluation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG–0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)[1]			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented			
9. Provide a schedule for additional submittals required.[2]			

[1] II.F.2 Attachment 1 (for Core Exit Thermocouples)

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.
2. Provide a description of the primary operator displays including: a. diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display; b. Provide the range of the readouts; c. Describe the alarm system; and d. Describe how the ICC instrumentation readouts are arranged with respect to each other.
3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.
4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.
5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG–0737, Attachment 1 and Appendix B, or identify and justify deviations.
6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.
7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG–0737, II.F.2)

Confirm explicity the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking sysem, the core exit thermocouples and the display systems

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

[2] For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82–34597 Filed 12–21–82; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–289]

General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Unit No. 1); Order for Modification of License

I

The General Public Utilities Nuclear Corporation (the licensee) and three co-owners hold Facility Operating License No. DPR–50, which authorizes the licensee to operate the Three Mile Island Nuclear Station, Unit No. 1 (the facility), at power levels not in excess of 2535 magawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Dauphin County, Pennsylvania.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements,* the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but

does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exit thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgrade subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating License No. DPR–50 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-34598 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 AND 50-316

Indiana and Michigan Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. DPR–58, and Amendment No. 47 to Facility Operating License No. DPR–74 issued to the Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of D.C. Cook Units 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to allow containment purging during operation and to allow purge and vent modifications required as part of the TMI Action Plan.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For futher details with respect to this action, see (1) The application for amendments dated August 30, 1982, as supplemented by letters dated October 29, 1982 and November 19, 1982, (2) Amendment Nos. 66 and 47 to License Nos. DPR–58 and DPR–74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-34599 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR–22, issued to Northern States Power Company, which revised the license and the Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment: (1) Approves the repair to the recirculation system piping and authorizes resumption of power, subject to certain conditions, and (2) changes the Technical Specifications to revise the Limiting Conditions for Operation and Surveillance Requirements for the coolant leak detection system.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated July 6, 1981, as supplemented November 22 and December 3, 1982 (2) Amendment No. 14 to License No. DPR–22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 10th day of December, 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-34600 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

OMB Review of Information Collection; NRC Form 212, "Qualifications Investigation (Professional)"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: NRC Form 212 "Qualifications Investigation (Professional)".

3. The form number if applicable: NRC Form 212.

4. How often the collection is required: when an applicant is considered for employment.

5. Who will be required or asked to report: Previous supervisors and personal acquaintances.

6. An estimate of the number of responses: 2000.

7. An estimate of the total number of hours needed to complete the requirement or request: 500.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. Abstract: Information used to determine qualifications and suitability of applicants for employment with NRC.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officers R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland, this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-34603 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

OMB Review of Information Collection; NRC Form 212A, "Qualifications Investigation (Secretarial/Clerical)"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: NRC Form 212A, "Qualifications Investigation (Secretarial/Clerical)."

3. The form number is applicable: NRC Form 212A.

4. How often the collection is required: when an applicant is considered for employment.

5. Who will be required or asked to report: Previous supervisors and personal acquaintances.

6. An estimate of the number of responses: 2,000.

7. An estimate of the total number of hours needed to complete the requirement or request: 500.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. Abstract: Information used to determine qualifications and suitability of applicants for employment with NRC.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION: Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officers R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland, this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-34604 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

The Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Order for Modification of License

I

The Sacramento Municipal Utility District (the licensee) holds Facility Operating License No. DPR–54, which authorizes the licensee to operate the Rancho Seco Nuclear Generating Station (the facility) at power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Sacramento County, California.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 5054(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor give early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package

when used in conjunction with core exit thermocouple systems an subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is Hereby Ordered That Facility Operating License No. DPR–54 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____
Docket No. _____
Operated by: _____

The following items for review are taken from NUREG–0737, pp II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. a final design description of additional instrumentation and displays			

	Reference	Deviations	Schedule
b. detailed description of existing instrumentation systems			
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for evaluation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG-0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)[1]			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented			
9. Provide a schedule for additional submittals required[3]			

[1] II.F.2 Attachment 1 (for Core Exit Thermocouples)
In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.
1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.
2. Provide a description of the primary operator displays including: a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display; b. Provide the range of the readouts; c. Describe the alarm system; and d. Describe how the ICC instrumentation readouts are arranged with respect to each other.
3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.
4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.
5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG-0737, Attachment 1 and Appendix B, or identify and justify deviations.
6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.
7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.
Appendix B (of NUREG-0737, II.F.2)
Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

[3] For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82-34601 Filed 12-21-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co. (Davis-Besse Nuclear Power Station, Unit No. 1); Order for Modification of License

I

The Toledo Edison Company (TECo) and The Cleveland Electric Illuminating Company (the licensees) hold Facility Operating License No. NPF-3, which authorizes the TECo to operate the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), at power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Ottawa County, Ohio.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2), the Nuclear Regulatory Commission (NRC) identified the need for the additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG-0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicatd by core exist thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube-ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorret operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS)

are acceptable for tracking reactor coolant system inventory and provide and enhanced ICC instrument package when used in conjunction with core exist thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse suystems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating License No. NPF–3 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exist thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC. Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 10th day of December 1982.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____

Docket No. _____

Operated by:_____

The following items for review are taken from NUREG–0737, pp II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. a final design description of additional instrumentation and displays			
b. detailed description of existing instrumentation systems			
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for evaluation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG-0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)[1]			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented			
9. Provide a schedule for additional submittals required[2]			

[1] II.F.2 Attachment 1 (for Core Exit Thermocouples).

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.

2. Provide a description of the primary operator displays including: a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display; b. Provide the range of the readouts; c. Describe the alarm system; and d. Describe how the ICC instrumentation readouts are arranged with respect to each other.

3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.

4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.

5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG-0737, Attachment 1 and Appendix B, or identify and justify deviations.

6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.

7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG-0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

[2] For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82-34602 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-460 OL (ASLBP No. 82-479-06 OL), Docket Nos. 50-460 CPA, 50-397 CPA (ASLBP No. 83-480-01 CPA)]

Washington Public Power Supply System, et al. (WPPSS Nuclear Project Nos. 1 and 2); Order Rescheduling Prehearing Conferences

On November 30, 1982 and December 1, 1982, this Board issued orders scheduling prehearing conferences in the above-captioned proceedings for January 19, 1983, and January 20, 1983, if necessary. The Conferences and all other activities specified in the orders are hereby rescheduled for exactly seven (7) days later. Accordingly, it is, this 15th day of December, 1982 Ordered:

(1) That the Board will conduct prehearing conferences in the construction permit extension proceedings beginning at 9:30 a.m., and in the operating license proceeding beginning at 10:30 a.m., on January 26, 1983 and continuing through January 27, 1983, if necessary, at the Federal Building, Auditorium, 825 Jadwin Avenue, Richland, Washington 99352;

(2) CSP may file its supplements to its requests for hearing not later than 15 days prior to these prehearing conferences. The parties are to arrange for the WPPSS and NRC Staff to receive any supplements on that date (January 11, 1983);

(3) WPPSS and NRC Staff are requested to file any responses to the supplemental petitions by January 24, 1983, and deliver copies to the Board in the forenoon of that date; and

(4) All other provisions in the Board's orders of November 30, 1982 and December 1, 1982, regarding the conduct and subject matter of the prehearing conferences, remain in effect.

Dated at Bethesda, Maryland, this 15th day of December, 1982.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 82-34607 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-254]

Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 83 to Facility Operating License No. DPR-29 issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit 1, located in Rock Island County, Illinois. the amendment is effective as of the date of issuance.

This amendment: (1) Incorporates revised Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) limits for certain fuel types, (2) deletes Minimum Critical Power Ration (MCPR), MAPLHGR and Linear Heat Generation Rate (LHGT) operating limits for all 7 x 7 fuel, including all mixed oxide fuel, (3) changes the pressure safety limits as a result of recently installed Anticipated Transient Without Scram (ATWS) Recirculation Pump Trip (RPT), (4) implements the ODYN transient analysis code for analyzing rapid pressurization events and (5) changes the pressure setpoints for three safety relief valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental

impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 19, 1982; (2) Amendment No. 83 to License No. DPR–29; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504–17th Street, Moline, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82–34687 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc., Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to change surveillance requirements for vacuum breakers to be consistent with manufacturer's test procedure, to establish minimum discharge pressure for the low pressure coolant injection pump for testing purposes, to change ECCS actuation instrumentation setpoint allowable values, to provide establishment of SRV acoustic monitoring setpoints based on the startup test program, to revise applicability of SRV's when the vessel is not pressurized, to correct errors in the fire detection instrumentation table, and to correct typographical errors in various technical specifications. This amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The applications for the amendment dated August 18, 1982, as amended by licensee letter dated August 23, 1982; (2) Amendment No. 6 to License NPF–14 dated December 16, 1982; and (3) the Commission's evaluation dated December 16, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of December 1982.

For the Nuclear Regulatory Commission.

Robert L. Perch,

Acting Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–34688 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–267]

Public Service Co. of Colorado; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR–34 issued to the Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Generating Station (the facility) located in Platteville, Colorado. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to delete the requirements for monthly trip tests of the ultrasonic steam pipe rupture detectors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 12, 1980, as supplemented by letter dated December 5, 1980; (2) Amendment No. 29 to Facility Operating License No. DPR–34; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Greeley Public Library, City Complex Building, Greeley, Colorado. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011, Attention: Director, Division of Resident Reactor Projects and Engineering Programs.

Dated at Arlington, Texas, the 13th day of December, 1982.

For the Nuclear Regulatory Commission.

Glen L. Madsen,

Chief, Reactor Projects Branch No. 1, Division of Resident, Reactor Projects and Engineering Programs, Region IV.

[FR Doc. 82–34689 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. et seq.), the Securities and Exchange Commission has submitted for extension of approval Form N–5 under the Securities Act of 1933 ("1933 Act")

and the Investment Company Act of 1940 ("1940"). Form N–5 is the registration statement form used by small business investment companies licensed as such under the Small Business Investment Act of 1958 both to register as investment companies under the 1940 Act and to register the securities under the 1933 Act.

The potential respondents are small business investment companies licensed as such under the Small Business Investment Act of 1958.

Agency Clearance Officer—Kenneth Fogash 202–272–2700.

Upon written request copy available from: Securities and Exchange Commission, Officer of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Form N–5 (17 CFR 274.5)
SEC File No. 270–172

Submit comments to OMB Desk Officer: Robert Veeder, 202–395–4814.

Dated: December 14, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34629 Filed 12–21–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 12901; 812–5217]

Automated Government Money Trust; Filing of Application

December 15, 1982.

Notice is hereby given that Automated Government Money Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, a no-load, open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 17, 1982, and amendments thereto on July 6, July 21, and December 6, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of those provisions thereof for which exemption is being sought.

Applicant is a "money market fund" organized as a Massachusetts business trust. Applicant states that it is designed as an investment vehicle to provide stability of principal and current income consistent with stability of principal for investors with temporary cash balances or cash reserves. Applicant states that its portfolio may include U.S. Government obligations, U.S. Government obligations purchased on a when-issued or delayed delivery basis, repurchase agreements (an instrument where the seller agrees to repurchase the instrument at the time of sale on a mutually agreed upon time and price) with banks or other financial institutions and portfolio instruments held pursuant to reverse repurchase agreements. Applicant states that it may invest up to 20% of its assets in short-term instruments of banks and savings and loan associations if the principal amount of the instrument is insured in full by the FDIC or FSLIC (such as certificates of deposit, demand and time deposits) all maturing in one year or less. Applicant represents that commerical paper investments are limited to commercial paper rated A–1 by Standard & Poor's Corporation, Prime 1 by Moody's Investors Service or F–1 by Fitch Investors Service. Applicant further represents that, when effecting reverse repurchase agreements, when-issued and delayed delivery transactions, assets of Applicant of a dollar amount sufficient to make payment for the obligations to be purchased will be segregated at the trade date and monitored until the transaction has been settled.

Applicant states that its Board of Trustees has determined that two qualities are necessary in the operation of money market funds: (1) Certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicant asserts that by utilizing high quality money market instruments of short maturities priced at amortized cost, it is possible to provide these features. Applicant further asserts that investors are not conserned with the theoretical difference which might occur between yield achieved through pricing to "market" and yield computed by using the amortized cost method, but that they are adament that the daily income declared by Applicant reflect income as earned using the amortized cost method and that it not exhibit volatility which may occur when, according to Applicant, changes in "market" prices cause unreal and artifical changes in yield on a daily or weekly basis. Applicant states that its Board of Trustees has determined in good faith that in light of its charateristics, the amortized cost method of valuation of portfolio instruments is appropriate.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the standards of fairness governing the granting of exemptions by the Commission under Section 6(c) of the Act are clearly present. Applicant also submits that its proposed operation is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In order to enhance investor protection, Applicant agrees to the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Applicant's $1.00 amortized cost price per share, and the maintence of records of such review.[1]

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[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the Board of Trustees believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Boards of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its Board of Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commisssion shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34630 Filed 12–21–82; 8:45 am]

BILLING CODE 8010–01–M

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Rel. No.12895; 812–5347]

Guaranteed Mortgage Corp. I and First Home Credit Corp. I; Filing of an Application

December 13, 1982.

Notice is hereby given that Guaranteed Mortgage Corporation I and First Home Credit Corporation I ("Applicants"), Suite 200, 4380 South Syracuse Street, Denver, Colorado 80237, filed an application on October 20, 1982, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicants are newly-formed limited-purpose financing subsidiaries of ICM Mortgage Corporation ("ICM") which, in turn, is the wholly-owned mortgage banking subsidiary of Pulte Home Corporation ("Pulte"). Each Applicant was incorporated for the limited purpose of facilitating the financing of long-term residential mortgages on single-family residences constructed by Pulte and other builders located in the United States (the "Builders"). Applicants represent that they will not engage in any other unrelated business or investment activities.

Applicants contemplate that Guaranteed Mortgage Corporation I will issue, in series, GNMA-Collateralized Bonds. Each series will be separately secured by collateral consisting primarily of "fully-modified pass-through" mortgage-backed certificates ("GNMA Certificates") and the payments thereon, fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA") and by one or more reserve funds. Each GNMA Certificate will evidence an undivided interest in a pool of mortgage loans owned by a limited-purpose financing subsidiary (a "Finance Company"), wholly-owned by a Builder or a subsidiary of a Builder, on single-family residences constructed primarily by the Builder which owns that Finance Company. Applicants further contemplate that First Home Credit Corporation I will issue, in series, Mortgage-Backed Bonds. Each series will be separately secured by collateral consisting primarily of conventional (i.e. not government guaranteed or insured) first mortgage loans (and payments thereon) secured by single-family residences constructed by the Builders, payments due under certain mortgage insurance and hazard insurance policies and one or more reserve funds.

Applicants state that each series of GNMA-Collateralized Bonds or Mortgage-Backed Bonds (collectively, the "Bonds") will be issued pursuant to an indenture between the Applicant and an independent trustee (the "Trustee"), as supplemented by one or more supplemental indentures, for such series (the "Indenture"). Each series of Bonds will be sold to investors through one or more registered securities dealers.

Applicants presently contemplate that each series of Bonds will be registered under the Securities Act of 1933 and sold pursuant to a prospectus containing all material disclosures required by the terms of that Act. Indentures for each such offering will be subject to provisions of the Trust Indenture Act of 1939. Furthermore, it is represented that the Applicants' Articles of Incorporation will provide that no series of Bonds may be issued unless that series has been rated in one of the two highest rating categories by a nationally recognized rating service.

Applicants state that the collateral securing each series of Bonds will be pledged by the Finance Companies to the Applicants prior to issuance of the Bonds secured thereby. Pledges by the Finance Companies will be made to secure long-term obligations of the Finance Companies that Applicants will purchase with proceeds of capital contributions (or subordinate loans) from the Applicants' parent, ICM. Net proceeds to the Applicants of the sale of each series of Bonds will either be transferred to ICM or used to purchase other long-term obligations of Finance Companies secured by new collateral for other series of Bonds. Applicants anticipate that each Finance Company will use the proceeds of the Applicants' purchases of their long-term obligations to repay short-term mortgage warehousing loans from lenders (including ICM) incurred in connection with the funding or acquisition of the mortgage loans which the Finance Company will pledge as security for the long-term obligations sold to Applicants.

The application states that mortgage loans that will secure Applicants' Bonds will have original maturities (and amortization schedules) of not more than 30 years. The Finance Company obligations that Applicants will purchase will provide for full repayment out of the proceeds of the collateral pledged to the Applicants as security therefor. The Finance Companies will assign the collateral securing each series of Bonds to an Applicant, which will assign its entire right, title and interest in the collateral to the Trustee under the Indenture. Applicants represent that amounts payable to the Applicants upon the long-term obligations of the Finance Companies purchased by Applicants will be sufficient to pay the principal of and interest on Bonds secured by the GNMA Certificates or pledged mortgages as they shall become due. The principal balance of each series of Bonds will be equal to or less than the principal balance of the GNMA Certificates or pledged mortgages securing such obligations. Each series of Bonds will provide for periodic payment of interest out of the interest payments on pledged mortgages or GNMA Certificates. Principal payments on the collateral will be deposited in a redemption fund which the Trustee will invest in United States Government securities or other cash equivalents. It is asserted that these funds will be available for redemptions at the request of bond holders in the order of their requests. It is further asserted that the redemption fund will also be used to assure that interest payments will always be sufficient to pay interest on the outstanding Bonds.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Applicants state that affiliates of Pulte and other large national homebuilders issue bonds of the type that the Applicants propose to issue without registering under the Act by virtue of the exemption under Section 3(c)(5)(C) thereof. Applicants assert that by granting this application, a valuable source of mortgage financing will become available to many homebuilders that could not issue bonds by themselves due to their inability to individually sell enough houses in a relatively short time to generate the mortgages needed to support a public offering of mortgage backed bonds. The Applicants note that each series of Bonds will be registered under provisions of the Securities Act of 1933 and will be sold to investors on the basis of a prospectus meeting requirements of that Act and that neither Applicants, ICM, the Trustee nor any Finance Company will be authorized to invest or reinvest assets pledged as collateral for any series of Bonds. Each pool of collateral for a series of Bonds will be fixed at the time of issuance, and the pool will not be subject to investment discretion exercisable by any participant in the proposed bond issuing program. Accordingly, Applicnts submit that an exemptive order pursuant to Section 6(c) is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 7, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34633 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12902; 812-5362]

Massachusetts Financial Services Co., et al.; Filing of Application

December 15, 1982.

Notice is hereby given that Massachusetts Investors Trust, Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Capital Development Fund, Inc., Massachusets Financial Development Fund, Inc., Massachusetts Financial Bond Fund, Inc., MFS Manage Municipal Bond Trust, Massachusetts Financial High Income Trust, Massachusetts Financial International Trust and Massachusetts Financial Emerging Growth Trust (collectively, "Fund Applicants") 200 Berkeley Street, Boston, MA 02116, each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management

investment company, and Massachusetts Financial Services Company ("MFS"), Fund Applicants' principal underwriter and investment adviser, filed an application on November 1, 1982, for an order pursuant to Section 6(c) of the Act, exempting certain transactions from the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder to the extent necessary to permit sales of shares presently offered by Fund Applicants, and of shares of other registered investment companies which may in the future engage MFS as principal underwriter, at net asset value without a sales charge to present and retired directors, officers, enployees and career life insurance agents of Sun Life Assurance Company of Canada ("Sun Life") and its subsidiary companies on terms and in the manner described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that each Fund Applicant is currently offering shares to the public at public offering prices consisting of net asset value per share next computed after sale plus varing sales charges described in the prospectus of that Fund Applicant. Shares are sold to MFS as principal underwriter which in turn sells shares to dealers having sales agreements with MFS. Applicants state that MFS is a wholly-owned subsidiary of Sun Life Assurance Company of Canada (U.S.) ("Sun Life (U.S.)"), which in turn is a wholly-owned subsidiary of Sun Life, a mutual life insurance company incorporated pursuant to an Act of Parliament of Canada, and conducting business in Canada, the United States and elsewhere.

Applicants state that they propose to permit directors and officers, fulltime employees and career life insurance agents who have acted as such for not less than 90 days, and retired directors, officers, employees and career life insurance agents of Sum Life and its subsidiary companies (including MFS and Sun Life (U.S.)), to purchase on their own behalf, and on behalf of a spouse or children under the age of 21 years (collectively, "Affiliated Employees and Agents"), shares of Fund Applicants, or of other investment companies which may in the future be offered by MFS, for initial and subsequent investment including dividend reinvestment, at net asset value determined in accordance with Rule 22c–1 under the Act without the imposition of a sales charge as otherwise applied to such sales. Applicants represent that purchases on behalf of a spouse or child will be eligible for purchase at net asset value only if that purchase is directed by the Affiliated Employee or Agent.

Applicants assert that any such sales will be made only upon the written assurance of the Affiliated Employee or Agent that the Purchase is being made for the purpose of investment and that the shares will not be resold except to the issuer thereof. The application further states that in the event of the issuer thereof. The application further will not be resold except to the issuer thereof. The application further states that in the event of the death of a shareholder, his legal representative, legatee or beneficiary will be permitted to continue to hold such shares subject to the same restriction that they will not be resold, except to the issuer.

Applicants state that it is contemplated that all Affiliated Employees and Agents will receive, at least annually, notice from their employers concerning the availability of shares of Fund Applicants at net asset value without a sales charge. This notice, which will be furnished at the expense of their employers, will describe the Fund Applicants and their individual investment objectives, indicate that investments would be at the net asset value without a sales charge, and detail the various ways in which investments could be made. Applicants further maintain that this notice would indicate that additional information concerning the Funds could be obtained from MFS or Sun Life and would inform employees of the availability of prospectuses of the Fund Applicants from such source.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or any rule under the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the sale of shares of the Fund Applicants at net value to Affiliated Employees and Agents may conflict with the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder. Nevertheless, Applicants assert that investment by Affiliated Employees and Agents in shares of Fund Applicants at net asset value pursuant to a uniform offer described in the prospectuses of the Funds would not be inconsistent with the purposes underlying Section 22(d) of the Act.

Applicants assert that the proposed sale to Affiliated Employees and Agents would result in substantial economies in sales efforts and sales-related expenses as compared with other sales. The application represents that Affiliated Employees and Agents have a general familiarity with, and a degree of loyalty to, Fund Applicants as investment vehicles offered by a subsidiary of Sun Life. Applicants submit that the affiliation of the varius entities in the Sun Life group is the basis for a unique relationship of these entities to the Fund Applicants and that substantial equities exist in favor of the class of persons described above since the customary selling expenses would not be incurred by MFS or dealers in connection with these sales.

Notice is further given that any interested perons may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant as the address stated above. Proof of such service (by affidivit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request.

An order disposing of the application herein wil be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 82-34628 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19328; SR-NYSE-82-16]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 13, 1982.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, submitted on October 8, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend current NYSE Rule 248 to permit the listing of certain types of debt issues currently precluded by Rule 248. Rule 248 presently requires a due bill to accompany registered bonds traded "and interest" and delivered between record date and interest payment date. By prefacing current Rule 248 with the words "unless otherwise directed by the Exchange," the NYSE proposes to provide for situations which may warrant departure from the usual application of the rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 19167, October 22, 1982) and by publication in the **Federal Register** (47 FR 51265, November 12, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioined proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34632 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19334; SR-Phlx-82-17]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

December 14, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1982, the Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposes to extend temporary Rule 933 until March 14, 1983. Rule 933 terminates by its own terms on December 14, 1982.[1] Temporary Rule 933 requires Phlx members who lease their seats to execute a sale and subordination agreement under which the Exchange may sell the membership upon termination of the lease and apply the proceeds of such a sale to the satisfaction of the priority claims specified in Phlx By-law XV. The Phlx states that the purpose of an extension of this rule is to keep it effective on a temporary basis until the Commission has had time to consider its proposed adoption as a permanent rule as part of the comprehensive membership transfer program Phlx has proposed in File No. SR-Phlx-82-4.[2] The Phlx states that the statutory basis for the proposed rule change is Sections 6(b)(1), 6(b)(5), and 6(c)(3)(A).

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-Phlx-82-17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change would merely keep in effect a Phlx rule that currently is operative. Rule 933, however, terminates on December 14, 1982 and an extension is necessary in order to allow time for consideration of its proposed adoption as a permanent rule as part of SR-Phlx-82-4. The Commission believes it is appropriate to extend the effectiveness of this rule on a temporary basis pending final Commission action on SR-Phlx-82-4.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34631 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission approved the adoption of temporary Rule 933 on December 21, 1981 (Securities Exchange Act Release No. 18356, December 21, 1981; 46 FR 63434, December 31, 1981).

[2] Notice of SR-Phlx-82-4 has been given by Commission Release (Securities Exchange Act Release No. 19163, October 21, 1982) and by publication in the **Federal Register** (47 FR 49515, November 1, 1982). On December 3, 1982, the Phlx granted an extension of time to March 7, 1983, for Commission action on this filing.

[Rel. No. 19335; SR-Phlx-82-18]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

December 14, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1982, the Philadelphia Stock Exchange, Inc., ("Phlx") 1900 Market Street, Philadelphia, PA 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposes to extend temporary Rule 941 until March 14, 1983 rule 941 terminated by its own terms on December 14, 1982.[1] Temporary Rule 933 requires Phlx member organizations and members who are parties to a-b-c agreements to execute a sale and subordination agreement under which the exchange may sell the membership upon termination of the member's

[1] The Commission approved the adoption of temporary Rule 941 on October 21, 1982 (Securities Exchange Act Release No. 19164, October 21, 1982; 47 FR 49503, November 1, 1982).

interest in it and apply the proceeds to satisfaction of the priority claims specified in Phlx By-law XV. In its filing the Phlx states that the purpose of an extension of this Rule is to keep it effective on a temporary basis until the Commission has had time to consider its proposed adoption as a permanent rule as part of the comprehensive membership transfer program Phlx has proposed in Filing No. SR–Phlx–82–4.[2] The Phlx states that the statutory basis for the proposed rule change is Sections 6(b)(1), 6(b)(5), and 6(c)(3)(A).

Interested persons are invited to submit written date, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Phlx–82–18.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change would merely keep in effect a Phlx rule that currently is operative. Rule 941, however, terminates on December 14, 1982 and an extension is necessary in order to allow time for consideration of its proposed adoption as a permanent rule as part of SR–Phlx–82–4. The Commission believes it is appropriate to extend the effectiveness of this rule on a temporary basis pending final Commission action on SR–Phlx–82–4.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change is referenced above be and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34836 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[2] Notice of SR–Phlx–82–4 has been given by Commission Release (Securities Exchange Act Release No. 19163, October 21, 1982) and by publication in the **Federal Register** (47 FR 49515, November 1, 1982). On December 3, 1982, the Phlx granted an extension of time to March 7, 1983, for Commission action on this filing.

[File No. 81-673]

Smith Barney Inc.; Application and Opportunity for Hearing

December 15, 1982.

Notice is hereby given that Smith Barney Inc. (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, (the "1934" Act"), for an order of the Commission granting Applicant an exemption from the provisions of Section 12(g) of the 1934 Act.

Smith Barney's application states in part:

1. In the absence of an exemption, Applicant would be required to register its securities under Section 12(g) of the 1934 Act, and would be required to comply with all reporting requirements thereunder.

2. Applicant believest that the exemption order requested by it is appropriate in view of the fact that with minor exceptions all holders of the Common Stock of the Applicant are engaged in the firm's business, and that there is no market for its Common Stock.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested persons not later than January 10, 1983 may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission by the Division of Corporation Finance pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34835 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12903; 812-5356]

Springerville Corp.; Filing of Application

December 15, 1982

Notice is hereby given that Springerville Corp. ("Applicant") 333 South Hope Street Los Angeles, California 90071, a California Corporation, filed an application on October 26, 1982, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant from all the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated under the laws of California on March 18, 1982, solely for the purpose of serving as a financing vehicle for the construction of Unit 2 ("Unit 2") of a coal-fired electric generating plant located in Apache County, Arizona which is under construction and is presently leased to Tucson Electric Power Company ("Utility"). Construction of Unit 2 commenced in January, 1979, and completion is currently scheduled for June, 1987. The cost is expected to total up to $650 million. To the extent funds borrowed by Applicant are not, at any given time, needed to pay construction costs of Unit 2, Applicant may lend such surplus funds to the Utility against its promissory note or other promise to repay the amounts lent to it, with interest at a rate designed to match Applicant's borrowing costs. Applicant might also temporarily place small amounts left over from round number borrowings and Commercial Paper Note issuance described below in high grade, short term securities. Applicant represents that its use as a financing vehicle should permit substantial savings in the cost of Unit 2 through lower costs of securing funds for construction.

Applicant represents that none of its outstanding common stock is owned by

the Utility or any affiliate thereof and that there has been no public offering of Applicant's common stock or of any other security of Applicant. Applicant agrees that the continuing effectiveness of any order granting the relief requested under Section 6(c) may be conditioned on none of Applicant's outstanding common stock being owned by the Utility or any affiliate thereof, and on no public offering of Applicant's common stock or of any other security of Applicant being made, except Commercial Paper Notes of the type described below.

The Applicant states that pursuant to a Facility Transfer Agreement dated as of March 18, 1982, and accompanying documents, Unit 2 was transferred to Security Pacific Corporation, a bank holding company, and Applicant agreed to provide funds for the construction of Unit 2. The Chase Manhattan Bank, N.A. ("Chase") loaned funds to Applicant for the construction of Unit 2 pursuant to a Loan Agreement dated as of March 18, 1982 (the "Loan Agreement"). Pursuant to a Lease Agreement with Security Pacific Corporation dated as of March 18, 1982, and accompanying documents, Unit 2 was leased by Security Pacific Corporation to Utility, and the rentals to be made under such lease as well as certain payments to be made by San Diego Gas & Electric Company ("San Diego Payments") for the purchase of power generated by Unit 2 (the "San Diego Payments") were assigned to Applicant. Applicant has reassigned its right to such rentals and payments as security for its obligations under the Loan Agreement, under the Credit Agreement described below, under the Commercial Paper Notes referred to below and under any other similar agreements with future lenders to the Applicant.

According to the application, Applicant proposes to issue commercial paper (the "Commercial Paper Notes") and borrow funds from certain institutional lenders in order to obtain additional funds to pay a portion of the construction costs of Unit 2. Applicant states that the initial series of Commercial Paper Notes will be backed by letters of credit of Bankers Trust Company, Continental Illinois National Bank and Trust Company of Chicago, and Wells Fargo Bank, N.A. (individually, a "Bank" and collectively, the "Banks") for $50 million each, issued pursuant to a Credit Agreement dated as of June 15, 1982 (the "Credit Agreement") with Applicant. Applicant will also be able to borrow directly from the Banks under the Credit Agreement up to the unused portions of their respective $50 million commitments. In addition, Applicant has a $85 million line of credit with Chase pursuant to the Loan Agreement, all of which had been borrwed at October 1, 1982. Applicant's obligations under both the Credit Agreement and the Loan Agreement are secured by a lien on Unit 2 and an assignment of Applicant's right to receive Unit 2 rentals and the San Diego Payments. These security interests are to be held by an agent for the equal and ratable benefit of the Banks, Chase, the holders of the Commercial Paper Notes and any other lenders to the Applicant.

Each of the Banks will issue to Morgan Guaranty Trust Company of New York, as issuing and paying agent and depository for the initial series of Commercial Paper Notes (the "Depository"), and irrevocable letter of credit for $50 million, for the benefit of holders of Applicant's initial series of Commercial Paper Notes. The Commercial Paper Notes will not be sold in denominations of less than $100,000 each. The aggregate principal amount (plus interest to maturity, if interest bearing Commercial Paper Notes are issued) of the initial series of Commercial Paper Notes outstanding at any one time will not exceed the amount available to be drawn upon under the letters of credit issued by the Banks ($150,000,000 under present agreements).

Applicant contemplates entering into additional agreements similar to the Credit Agreement or the Loan Agreement, once available credit thereunder is fully utilized, in order to finance the completion of Unit 2. Applicant also contemplates issuing further series of Commercial Paper Notes, similar to the initial series, which will be backed by letters of credit issued by one or more major banks which may or may not include the Banks.

Applicant undertakes not to market any Commercial Paper Notes prior to receiving an opinion of counsel to the effect that the proposed offering of Commercial Paper Notes is exempt from the registration requirements of the Securities Act of 1933 (the "Securities Act") by virtue of Sections 3(a)(2), 3(a)(3) or 4(2) thereof. Applicant further undertakes that, in respect of any future offerings of Applicant's debt securities, it will obtain an opinion of counsel as to the availability of an exemption from the registration requirements of the Securities Act. Applicant does not request Commission review or approval of counsel's opinion(s) regarding the availability of an exemption from the registration requirements of the Securities Act. Applicant represents that, unless and until the requested exemptive order is issued, Applicant's outstanding securities (other than short-term paper) will be beneficially owned by not more than one hundred persons and Applicant will not make a public offering of its securities. Consequently, Applicant asserts that it is excluded from the definition of investment company by Section 3(c)(1) of the Act.

If the requested order is issued, Applicant, through one or more major commercial paper dealers, expects to offer the Commercial Paper Notes publicly, but Applicant represents that they will be offered only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market. While an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to require its commercial paper dealer(s) to agree to provide each purchaser of the Commercial Paper Note prior to its purchase thereof a memorandum which briefly describes the businesses of Applicant and the Bank whose letter of credit backs the Commercial Paper Note in question. Such memorandum will be updated as promptly as practicable to reflect material adverse changes in the financial status of Applicant or any of the Banks and will be at least as comprehensive as memoranda customarily used in offering commercial paper. Applicant consents to having any order granting the relief requested under Section 6(c) expressly conditioned upon its compliance with the foregoing undertakings regarding disclosure documents.

Applicant represents that, prior to their issuance, the Commercial Paper Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization. However, no such rating shall be required to be obtained with respect to an issue of Commercial Paper Notes if in the opinion of counsel, an exemption is available for the issue pursuant to Section 4(2) of the Securities Act.

The application states that the Commercial Paper Notes will be repaid through either the issuance of additional Commercial Paper Notes or borrowings under Applicant's lines of credit under the Credit Agreement, the Loan Agreement or other similar agreements or drawings on the letters of credit issued by the Banks or by other major banks. The Credit Agreement provides that the initial series of Commercial Paper Notes must all be retired on or before September 1, 1987, at which time

the lines of credit under the Credit Agreement convert into term loans. Loans under the Loan Agreement are term loans. Upon repayment of these term loans Applicant will be left with no profit or gain.

Applicant states that its right to receive rental income from Unit 2 and the San Diego Payments, which constitute Applicant's principal assets, could be considered "investment securities." Thus Applicant states that it may be considered to be an investment company under Section 3(a)(3) of the Act. However, having been organized solely as a financing vehicle to facilitate financing the construction of Unit 2, Applicant does not view itself as an investment company. Accordingly, in order to eliminate any doubt that Applicant would be entitled, without registration under the Act, to issue and sell Commercial Paper Notes publicly, Applicant has applied for an exemption from all provisions of the Act pursuant to Section 6(c) of the Act.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class of classes or persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that approval of this application would be necessary and appropriate in the public interest. Applicant maintains that approval would allow construction of Unit 2 at substantial savings in interest costs, which savings would be passed on to the rate-payers of Utility and San Diego. Applicant believes that these savings would result from the lower commercial paper rate which Applicant would pay as a result of publicly offering its Commercial Paper Notes, as opposed to the higher rates Applicant is advised prevail in the private placement market.

Applicant states that approval of this application would be consistent with the protection of investors. Applicant represents that the Commercial Paper Notes will be backed by letters of credit issued by major banks which are regulated by bank regulatory agencies. Utility is a public utility regulated by the Arizona Corporations Commission. San Diego is a public utility regulated by the California Public Utilities Commission. Applicant states that except for investment of temporarily excess funds which might be loaned to Utility or invested in certain high grade instruments of not more than 270 days maturity, Applicant's only "investment security", if any, is its right to Unit 2 rentals and the San Diego payments. Applicant maintains that these are not the liquid types of "securities" contemplated by the drafters of the Act. Applicant also asserts that as a special purpose corporation established solely to issue commercial paper and borrow money for the purposes specified in the application, Applicant's operations do not lend themselves to the abuses against which the Act was directed.

Notice is further given that any interested person may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearnig on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34634 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12863; 812-4707]

Union-Investment Gesellschaft m.b.H; Filing of Application

December 1, 1982.

Notice is hereby given that Union-Investment-Gesellschaft m.b.H. ("Union-Investment" or "Applicant") c/o Franz M. Oppenheimer, Esq., Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue, N.W., Washington, D.C. 20006, a West German management company, filed an application on behalf of Unifonds, a West German mutual fund, on August 5, 1980, and an amendment thereto on October 8, 1982, for an order of the Commission pursuant to Section 7(d) of the Investment Company Act of 1940 ("Act") permitting registration of the Applicant under the Act so that it may sell Unifonds shares in the United States, and pursuant to Section 6(c) of the Act granting exemptions from the following provisions of the Act and various rules adopted thereunder: Sections 10 (a), (b), (f) and (g); 12 (b) and (d)(3); 13; 15; 16; 17 (a), (e), (f), (g) and (j); 18(i); 22 (c), (d) and (e); 30 (a), (c) and (d); 31 (a) and (b); 32; and 34. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of those provisions of the Act to which the exemptive request applies.

According to the application, Unifonds is one of the three largest mutual funds in West Germany, having over $900 million in assets comprised of cash and a diversified portfolio made up soley of securities of West German issuers that are listed or traded on West German stock exchanges. Under West German law, Unifonds is a "separate estate"; it has no legal personality or existence. It is an unicorporated collection of assets. It has no employees, cannot transact business, and can neither sue nor be sued. Union-Investment is one of West Germany's oldest management companies. It advises and administers five separate funds, one of which is Unifonds. Consequently, Union-Investment is the entity that issues shares in Unifonds, and has filed the application on its behalf.

According to the application, Union-Investment is owned by 40 shareholder banks whose liability as owners is limited to the amount of their respective contributions. Applicant states that these banks, not the shareholders of Unifonds, vote on matters concerning Union-Investment, including the election of its Aufsichtsrat ("Board of Supervisors").

Applicant states that Union-Investment's Board of Supervisors can, among other things, appoint, dismiss and generally oversee the Geschaeftsfuehrung ("Board of Management"), call shareholder meetings and approve certain major transactions of Union-Investment. Applicant further states, however, that the Board of Supervisors cannot, under

West German law, perform any management functions. Similarly, the Anlageausschus ("Advisory Board"), a second governing body of Union-Investment, whose members are selected by the Board of Supervisors, is prohibited from determining which securities will be bought and sold, although it appoints a working committee to meet regularly with Union-Investment's executives and fund managers to discuss investment matters. West German law only permits a third body, the Board of Managers, to make determinations concerning the portfolios of mutual funds which Union-Investment manages, including Unifonds. The Board of Managers appoints a fund manager to supervise each fund's portfolios and set investment policy. The fund manager, who consults regularly with the Advisory Board and with Union-Investment's research staff, makes the day-to-day investment decisions.

Applicant also states that Union-Investment provides all investment advice, management services, and promotional activities for Unifonds. Union-Investment receives a management fee in exchange for these services pursuant to the Unifonds Investment Contract.

According to the application, portfolio transactions of Unifonds are effected almost entirely through Union-Investment's West German shareholder banks. The allocation of this brokerage business is determined by the Board of Managers and is usually effected by the fund manager. A portion of the commissions earned by these shareholders banks is remitted to Union-Investment, which uses these amounts to pay Unifonds' custodian fees. Accordingly, Unifonds itself is not charged directly for its custodian fees.

Applicant states that the Board of Supervisors appoints a custodian bank for Unifonds which, under West German law, must have custody of all Unifonds' assets, control all Unifonds' accounts, collect all interest and dividends, effect all portfolios transactions, compute the daily net asset value, and pay all disbursements to investors.

Applicant further states that Union-Investment issues shares of beneficial interest in Unifonds. Those shares are bearer shares which are redeemable and have no voting rights. The issuing price of Unifonds shares is the net asset value of its portfolio determined at the close of the Frankfurt Stock Exchange on the day the shares are purchased, plus a sales load of five percent. While an investor may purchase Unifonds shares directly from Union-Investment or from other banks, they are typically sold through Union-Investment's shareholder banks.

A. Registration of Applicant Under the Act to Allow Sale of Unifonds Shares in the United States.

Section 7(d) of the Act prohibits foreign investment companies from making a public offering in the United States unless they first receive an order of the Commission based upon a finding that "by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the (the Act) against such company and that the issuance of such order is otherwise consistent with the public interest and the protection of investors." Rule 7d–1 sets forth for Canadian management investment companies certain conditions and arrangements for compliance with the standard of enforceability stated in Section 7(d). Those conditions and arrangements have also, in the past, been used as guidelines for non-Canadian investment companies wishing to sell their shares in the United States although strict conformity with Rule 7d–1 is not a requirement. Rule 7d–1 provides that "conditions and arrangements proposed by investment companies organized under the laws of other countries will be considered by the Commission in light of the special circumstances and local laws involved in each case." In addition, the Commission, in Investment Company Act Release No. 8959 (September 26, 1975), issued a statement of "Commission Policy and Guidelines for Filing of Application for Order Permitting Registration Under the Act and Sale of Shares in the United States (hereinafter referred to as the "Guidelines"), which announced that applications filed pursuant to Section 7(d) would be reviewed on a case by case basis until such time as the Commission adopted specific rules under that section. The Guidelines do, however, require a foreign investment company desiring to register in the United States to describe the extent to which it cannot comply with Rule 7d–1.

Applicant states that, because of the reasons outlined below, it has difficulties complying with many of the provisions of Rule 7d–1 because of the West German regulatory system and West German business practices, but that the operation of West German law and the conditions and arrangements to which it has consented in its application, together with the application of those provisions of the Act from which it does not request exemption, provide the means for it to meet the enforceabiltiy standard of Section 7(d). Specifically, Applicant states that it cannot comply with all of the requirements of paragraphs b(1), b(3), b(4), b(5), b(6), b(7), b(8) and b(9) of Rule 7d–1.

Applicant declares that its corporate executives and Unifonds' distributor, custodian and accountant under West German law are not permitted to be United States citizens or residents. Furthermore, Union-Investment states that under West German business practice those persons have no personal liability toward fund shareholders. Therefore, such persons and entities will not enter into any agreements to comply with the Act, nor will they consent to the jurisdiction of United States courts and appoint agents for service of process here. However, Union-Investment, which is liable to the shareholders of Unifonds under West German law, has undertaken to comply with those provisions of the Act from which it is not exempted, and will consent to jurisdiction of United States courts and will appoint an agent for service of process. Also, Union-Investment has agreed that the Commission may revoke any order issued on this application in the event of a violation of such order. In addition, according to Applicant, all of Unifonds' assets must be held in West Germany in Unifonds' custodian bank or, for some of its cash deposits, in Union-Investment's shareholder banks. Under West German law, all sales transactions must take place at Unifonds' custodian bank in Frankfurt. Thus, in many cases, the United States courts will not have jurisdiction over the persons associated with UnionInvestment, Unifonds' assets or the transactions in Unifonds shares.

Moreover, it may be difficult for the Commission or a shareholder to enforce an injunction or bring a criminal action against the European executives of Union-Investment or attach, liquidate or distribute any of the assets of Union-Investment or Unifonds, all of which will be kept in West Germany. The assets can be liquidated and distributed according to West German law only, and jurisdiction over any distribution lies solely in the courts in Frankfurt. Union-Investment has, however, attempted to compensate for the unavailability of assets in the United States with which to satisfy a judgment by undertaking to arrange for and maintain, in a form satisfactory to the staff or the Commission, an irrevocable letter of credit in an initial amount of $1 million, and thereafter in an amount equal to five percent of the value of Unifonds shares then outstanding in the United States, with the amount of the

letter of credit to be adjusted monthly in order to maintain such five percent relationship. This letter of credit will be drafted and issued so as to be payable, effectively, to any person (or persons) who has obtained a judgment of a United States court aganist Union-Investment for violation of the securities laws of the United States, provided that Union-Investment has refused to satisfy such judgment after demand for satisfaction. Finally, according to Applicant, it will not be possible to inspect or audit the books and records of either Union-Investment or Unifonds, as the originals of such items will be kept in West Germany and Union-Investment asserts that it would be too expensive to ship duplicates to this country.

Applicant asserts that, despite its inability to comply with many of the provisions of Rule 7d–1, the special circumstances of this case warrant permitting Union-Investment to register here. It asserts that West Germany has an extensive system of regulation with oversight of the activities of management companies by each fund's respective custodian bank and by the Bundesaufsichtsamt fuer das Kreditwesen ("BAK")—the agency in West Germany that regulates investment companies operating there. In addition, Applicant states that West German law imposes a fiduciary duty upon managers of an investment company to operate the fund on behalf of the fund's shareholders. Applicant submits that the conditions and arrangements discussed herein, which have been agreed to as prerequisites for obtaning a Commission order under Section 7(d), together with the protections afforded by the West German regulatory system, meet the standard of enforceability enunciated in Section 7(d). Applicant further submits that the policies of facilitating the international flow of capital and practicing reciprocity with friendly nations argue for granting permission to Union-Investment to register here.

In order to facilitate granting its requested order under Section 7(d) of the Act, Union-Investment has made certain undertakings and agreed to certain conditions being imposed in such order. Specifically, Union-Investment has undertaken that, with respect to the financial statements of Unifonds, those statements will meet the requirements of Regulation S–X (except for such differences that have been agreed upon by representatives of the Commission's staff and Applicant), despite the fact that such statements filed with the Commission and sent to United States investors will be prepared in accordance with West German generally accepted accounting principles. Such financial statements will reconcile the differences between West German accounting principles and generally accepted accounting principles in the United States. Union-Investment has also agreed that such financial statements will be audited on a basis that substantially complies with United States generally accepted auditing standards, and that it will engage United States independent public accountants for the purpose of consulting with its independent West German accountants as to such standards. Such financial statements will contain an audit report that is substantially equivalent to an audit report that would be issued by an independent public accountant in the United States under similar circumstances, and will not be prepared on a basis that would result in a qualification in the accountant's report other than qualifications which are beyond the control of Union-Investment to cure.

Applicant has also undertaken that it will register Unifonds as an investment company under the Act, that it will register Unifonds shares sold to United States investors under the Securities Act of 1933 ("1933 Act") and will file all appropriate disclosure documents prepared in the prescribed manner, with the exception that Union-Investment will report the aggregate amount of remuneration paid to its management and the aggregate amount of brokerage fees paid to its shareholder banks, and provided that Union-Investment will be permitted to discuss with the staff the possible modification or inapplicability of certain items in the disclosure forms. Applicant further states that it will file with the Commission and, where applicable, send to United States investors all annual and periodic reports required to be filed by the Act. Such reports will be prepared in the manner required by the prescribed forms, except that Union-Investment will report in the aggregate (rather than individually) the amount of remuneration paid to its management and the aggregate amount of brokerage fees paid to its shareholder banks, and that Union-Investment will not, because of the reporting practices in West Germany, include a statement of operations in its semi-annual report to shareholders, and provided the Union-Investment will be permitted to discuss with the staff the possible modification or inapplicability of certain items of disclosure. In addition, Applicant has agreed to include an audited balance sheet of Union-Investment, in a form acceptable to the Commission's staff, as of the end of Union-Investment's most recent fiscal year, in the prospectus of Unifonds used to offer Unifonds shares for sale in the United States.

As an additional condition to issuance of its requested Section 7(d) order, Applicant has agreed to make disclosure to its United States investors of all material regulatory provisions of the Act from which it is exempted by the terms of its order and the possible consequences of such exemption.

In its application, Applicant has also undertaken to register as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"), with the understanding that it may request exemptions from provisions of the Advisers Act that correspond to exemptions granted by the Commission from the Act, as well as such other exemptions from the Advisers Act as it can justify. Finally, Applicant has represented that the Geschaeftsfuehrer and the Deputy Geschaeftsfuehrer of Union-Investment (its two top officials) have determined that there are no bank secrecy or blocking laws in West Germany that would prevent their testifying or providing documentary evidence on the operations of Union-Investment and Unifonds to the Commission or to a United States court, and that they have stated that they will not invoke any contractual or otherwise legally enforceable privilege of secrecy that might prevent others from providing testimony or documentary evidence on the operations of Union-Investment or Unifonds. Such persons have also stated that should any such secrecy or blocking laws be enacted in the future, they will waive the application of such laws to the operations of Union-Investment and Unifonds to the extent they are allowed by German law to waive such laws.

Therefore, based on the conditions and representations it has made in its application, Applicant submits that it meets the criteria for issuance of its requested order under Section 7(d) of the Act.

B. Request for Exemptions from the Provisions of Certain Sections of the Act.

Pursuant to Section 6(c) of the Act, Applicant has requested exemptive relief from many provisions of the Act in order to accommodate Unifonds' status as a registered investment company under the Act with West German law and business practices. Such exemptive requests are summarized below.

Section 6(c) provides that the Commission may exempt any person from the provisions of the Act if and to the extent that such exemption is

necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has requested exemption from Sections 30(a) and 30(d) in order to be able to prepare and file its required periodic Commission and shareholder reports with such modifications as discussed above.

Applicant requests an exemption from Section 22(d) in order that (1) its shareholder banks, which sell Unifonds shares, may negotiate a discount on the price of Unifonds shares as long as they prevent dilution by remitting the full net asset value to Unifonds' custodian bank, (2) Union-Investment may engage in the longstanding and widespread West German practice of rounding up the issuing price of every share to the nearest tenth of a deutsche mark, with the additional amount paid directly (as part of the sales load) to Union-Investment and the shareholder bank selling shares and (3) Union-Investment may, although it has not done so since 1979, round down the redemption price of Unifonds shares to the nearest fifth or tenth of a deutsche mark. Applicant states that all of these practices are permitted by West German law, which contains provisions designed to prevent dilution and riskless trading. Moreover, Applicant has consented as condition of its order to disclose to United States investors that it engages in these practices, such disclosure to include the maximum sales load that could result from the rounding up procedure. In addition, applicant states that if Union-Investment decides in the future to engage in the practice of rounding down the redemption price of Unifonds shares, it will so inform the Commission.

Since Union-Investment effects its transactions on West German stock exchanges and is regulated by the BAK, it requests exemption from Section 22(e) of the Act to the extent necessary to permit it to suspend the right of redemption and to postpone the date of payment or satisfaction when the Frankfurt Stock Exchange is closed or trading thereon is restricted or whenever the BAK so orders. In addition, Applicant states, the Unifonds Investment Contract permits Union-Investment to suspend the right of redemption until it has disposed of assets equivalent to the amount of redemption provided Union-Investment acts with dispatch and in the interest of all shareholders. As a condition of exemption from Section 22(e), Applicant will disclose to United States investors that Union-Investment may suspend the right of redemption and delay payment or satisfaction under the above circumstances, and will immediately report any suspension of redemption to the Commission. Union-Investment also has undertaken to waive applicability to it of Section 22(e)(1) since Applicant does not require that it be allowed to suspend the right of redemption when the New York Stock Exchange is closed or trading thereon is restricted.

Applicant represents that it needs an exemption from the bonding requirements of Section 17(g) of the Act and Rule 17g–1 thereunder because BAK policy would prohibit it from obtaining a bond to protect United States investors unless it provided bonding protection for all Unifonds' shareholders, which, it further represents, would put Applicant at a competitive disadvantage with other West German investment companies. As a condition to granting this exemption, Union-Investment consents to disclose to its United States investors that, although those investors are protected under West German law against acts of theft or embezzlement of Unifonds' assets, Union-Investment's employees are not bonded, and there is no assurance that Union-Investment's assets will be adequate to cover a loss.

Applicant also requests exemption from several of the Act's recordkeeping and inspection provisions, which are designed to reveal, among other things, overreaching of investment companies through parallel trading by insiders. According to Applicant, the BAK will not permit Applicant to submit its books and records to inspection by an agency of a foreign government in Germany, and furnishing copies to the Commission for inspection in the United States would be prohibitively expensive and useless, since such documents would be in German. Specifically, Applicant requests relief from Section 17(j) and Rule 17J–1(b) and (c) thereunder; Section 31(a) and (b) and Rule 31a–1(d) thereunder; Section 32(c); and Section 34. Applicant represents, however, that West German law limits the number of persons with knowledge of Unifonds' transactions, makes self-dealing by insiders unlawful, and requires Unifonds to be audited annually to discover any manipulation. In addition, Union-Investment argues that because Unifonds' portfolio contains only stock traded on West German stock exchanges, the possibility is remote that manipulation of such a market could result in harm to Unifonds' shareholders. Applicant's request for exemption from the Act's recordkeeping provisions, including Section 34 of the Act, is premised on its contention that Union-Investment should not be required to maintain records that it is not required to maintain under German law and which other German funds do not maintain. Section 34, in essence, prohibits destruction, alteration or material misstatements in various documents required to be preserved pursuant to Section 31 and/or 32. Applicant has requested relief from Section 34, not to permit the conduct proscribed therin, but solely because it seeks relief also from those sections (31 and 32), which mandate preservation of such documents, although it will comply with West German recordkeeping requirements. As a condition to this exemption, Union-Investment states that it will disclose to United States investor: (1) That Union Investment, the members of its Board of Managers, Unifonds' fund manager and Union-Investment's shareholder banks that act as principal underwriters do not comply with the reporting and recordkeeping requirements of Sections 17(j) and 31(a) of the Act and the rules promulgated thereunder, and (2) the possible consequences of such non-compliance.

Applicant states that owing to the structure of the West German investment company industry and the provisions of West German law, which do not embody the concept of independent directors, it needs an exemption from those provisions of the Act dealing with disinterested directors: Sections 10(a), (b) and (g); 15(c) and 32(c). Applicant states, without necessarily admitting, that members of Union-Investment's Advisory Board, Board of Supervisors and Board of Managers may be deemed "affiliated persons" of Union-Investment, Unifonds' principal underwriter and investment adviser. In addition, such persons may be deemed "interested persons" of Unifonds. Applicant further states that members of Union-Investment's Board of Supervisors, who are either officers of or partners in Union-Investment's shareholder banks, may be deemed affiliated persons of investment bankers. If such persons are so deemed, and if Union-Investment's Advisory Board and Board of Supervisors are deemed to be subject to the same regulation under the Act as the boards of advisers and boards of directors of domestic investment companies, neither Union-Investment nor Unifonds will have any disinterested advisory board members or directors. Applicant argues that West German law provides substitute safeguards for these provisions. With respect to Section 10(1), Applicant represents that West German law imposes a duty on

management to act in the interest of Unifonds' shareholders, and it provides for independent review of management by Unifonds' custodian bank and by the BAK, both of which may bring suit against Union-Investment for management's failure to so act. The BAK may also dismiss a manager who is unfit professionally or who violates laws regulating West German investment companies. Applicant argues that the functions of Sections 10(b) and (g), to prevent conflicts of interest, are fulfilled by provisions of West German law that prohibit members of the Advisory Board and the Board of Supervisors from participating in the daily decisions concerning allocation of brokerage and the investment of assets for Unifonds. Applicant states that the managers and employees who make those decisions at Union-Investment are not affiliates or interested persons of the shareholder banks who act as brokers, investment bankers and principal underwriters for Unifonds. In addition, Applicant further states that fund managers are held by West German law to a fiduciary duty with limits on their investment discretion. Applicant does not, however, represent that West German law prohibits "interested persons" from serving as managers. Finally, Applicant offers what it states is an alternative protection to Section 15(C) by representing that, under West German law, the BAK must approve both the Unifonds Investment Contract and the selection of Unifonds' accountant.

Applicant states that since shares issued by Unifonds are not voting shares, Unifonds and Union-Investment cannot comply with Section 18(i) of the Act, which requires that every share of stock issued by a registered investment company be voting stock, or with Sections 13(a), 15(a) and (b), 16(a) and 32(a), which require shareholder approval of many activities of a registered company. Applicant represents that some of those activities, such as becoming a "nondiversified" company, as defined by West German law, issuing senior securities, underwriting securities issued by other persons, buying or selling real estate or commodities, making loans and deviating from its investment policy as stated in the Unifonds Investment Contract, are prohibited by West German law. Applicant further represents that the other activities subject to shareholder approval in the United States are subject to BAK approval in West Germany. The names of Union-Investment's directors (who are elected by its shareholders, rather than by Unifonds' shareholders) and any borrowing by Union-Investment on behalf of Unifonds are reported to the BAK. The BAK must approve the written Union-Investment Contract between Unifonds' shareholders and Union-Investment, and must also approve the appointment of Unifonds' accountant. Once approved by the BAK, the Unifonds Investment Contract can be terminated only pursuant to West German law. The terminated contract cannot be assigned and, upon termination, the custodian bank may either dissolve the fund or appoint another company to manage Unifonds under the terms of the previous contract. Successor management would have to be approved by the BAK.

The application also requests exemptive relief so that Applicant may engage in certain affiliated transactions which are typical of West German business practices. Applicant requests exemptions from Sections 10(f) and 17 (a), (b) and (e)(2) to be able to continue to use its shareholder banks as depositary banks and as principal underwriters and brokers, and to buy securities from and sell securities to such banks and members of its Advisory Board. Applicant represents that, instead of prohibiting affiliated transactions, West German law prohibits any borrowing of fund assets by anyone except to the extent that cash is deposited in shareholder banks. It also prohibits members of the Board of Supervisors and Board of Managers from buying property from or selling property to a fund. Applicant states that conflicts of interest are also prevented by a prohibition against participation in daily investment decisions by members of the Board of Supervisors and the Advisory Board, and by limitations on the terms of all transactions, rather than the proscription of affiliated transactions. For example, Applicant states that, although the purchase of securities from and sale of securities to affiliates, including shareholder banks, is permitted by West German law, restrictions are placed on the price and type of security that may be bought or sold. Applicant represents that transactions which meet such restrictions would meet the standard of Section 17(b).

Applicant states that, to the extent its shareholder banks serve as depositories for Unifonds' cash, there may be non-compliance with Section 17(a)(3). It represents, however, that West German law prohibits the participation of the members of the Board of Supervisors in any decision concerning the allocation of cash deposits and requires Unifonds' fund manager to make such allocations for the benefit of Unifonds' shareholders. Applicant further represents that the amount of cash held by the shareholder bank cannot exceed the level described in the Unifonds Investment Contract. In addition, Applicant states that the banks pay at least as much as, and usually more than, the standard interest rate, and that the amount deposited in each bank is determined by the Board of Managers acting independently of the shareholder banks and in the interest of Unifonds' shareholders. Finally, Applicant represents that only the custodian bank may draw on the accounts, and the deposits in each bank are protected in full by the Deposit Protection Fund.

Applicant states that although Unifonds' brokerage commissions, which are paid to its affiliated shareholder banks, are lower than fees customarily charged similar credit institutions in West Germany for comparable transactions, and although Union-Investment maintains records of Unifonds' brokerage transactions for at least six years, Unifonds' fees are not "customary" pursuant to Rule 17e–1 because Union-Investment's Board of Supervisors does not review such transactions. Therefore, an exemption is needed from Rule 17e–1 and from Section 17(e)(2). Applicant represents that there is, however, regular review of all brokerage transactions by Unifonds' custodian bank, which is not a shareholder bank.

Applicant requests an exemption from Section 10(f) of the Act so that Union-Investment may from time to time buy securities in the course of an underwriting directly or indirectly from a shareholder bank. Union-Investment submits that it provides alternative safeguards for investors. Union-Investment represents that it complies with a number of the requirements of Rule 10f–3, although it does not comply with all of them. Specifically, it represents that the price it pays for securities does not exceed the public offering price, and the underwriting fee is comparable to fees charged for similar securities sold during a similar period of time. In addition, Union-Investment respresents that West German law limits the amount of an issuer's securities which an investment company may purchase to five percent of the outstanding securities of that issuer, unless the investment company obtains a specific exemption from the BAK permitting the purchase of a greater amount. Union-Investment further represents that although it may purchase shares directly from a shareholder bank during an offering, West German law

prevents any pressure to buy new issues exerted by the members of the Board of Supervisors, who are the affiliates of the shareholder banks acting as principal underwriters. It does this by prohibiting them from participating in Union-Investment's daily investment decisions. Finally, Union-Investment represents that its manager, who makes the daily investment decisions for Unifonds, may purchase shares for Unifonds only if it is in the best interest of Unifonds' shareholders to do so, and that they may not do so to assist a shareholder bank in dumping or in stimulating the market in a new issue.

Applicant states that since Union-Investment is technically the "issuer" of Unifonds shares and pays for the distribution of those shares out of its own assets, it may be deemed in violation of Section 12(b) and Rule 12b–1. Accordingly, Applicant requests an exemption from those provisions. In support thereof, Applicant submits that it does not violate the purpose of Section 12(b), which it states is to regulate the use of the assets of a registered investment company when such assets are used to pay the costs of distribution, an activity which, unless properly controlled, may result in little or no benefit to fund shareholders.

Applicant also requests an exemption from Section 12(d)(3) of the Act. Applicant states that Unifonds owns shares of West German banks, and in West Germany the underwriting and brokerage business is conducted almost exclusively by banks. Union-Investment states that it would probably be unlawful for it not to invest Unifonds' assets in bank securities since: (1) Under West German law and the Unifonds' Investment Contract, Union-Investment must diversify risk and manage Unifonds' assets in the interest of Unifonds' shareholders and (2) Union-Investment must select securities "exclusively on the criteria of earnings and/or growth rate." In support of its request, Applicant asserts that, in comparison with Rule 12d–1(a)(1), which provides an exemption from Section 12(d)(3), the shareholder banks are engaged primarily in commercial banking activities and it believes that their gross revenues from securities dealing, brokerage and underwriting activities do not exceed 15 percent of their total gross revenues, although it cannot state unequivocally that in all cases there will be compliance with this percentage limitation. Union-Investment also represents that under West German law, Unifonds and all other funds manage by Union-Investment in the aggregate cannot own more than five percent of the voting stock of any one issuer. Union-Investment states that under the Act a registered investment company may purchase the securities of a bank engaged in the business of an investment adviser, provided that the bank does not act as adviser to the purchasing investment company. Union-Investment represents that it does not invest Unifonds' assets in the common stock of shareholder banks that act as its principal underwriters and brokers, and submits that it is as appropriate to permit it to invest Unifonds' assets in the securities of other West German commercial banks that act as underwriters, dealers and brokers as it is to permit domestic investment companies to invest in the securities of domestic banks that act as investment advisers because all such banks are primarily engaged in commercial banking, not investment activities.

Applicant states that it is the practice of Union-Investment when determining the net asset value of Unifonds' shares to debit monthly to Unifonds the management and custodian fees. Thus, Applicant requests an exemption from Section 22(c) of the Act and from Rule 22c–1 thereunder. Union-Investment represents that it believes that the dilutive effect on net asset value caused by monthly accrual of its principal expense fees is probably "immaterial" when compared with more significant fluctuations in the market price of portfolio securities, and it therefore submits that the practice of monthly accrual does not give an unfair advantage to investors who redeem just prior to the accrual date. Union-Investment further represents that monthly accrual of expenses accords with the established practice of West German investment companies. Applicant also requests an exemption from Section 22(c) and Rule 22c–1 because it sells and redeems Unifonds shares between 8:00 a.m. and 4:00 p.m. on a given day at a price computed at 2:00 p.m., after the close of the Frankfurt Stock Exchange on that day. With respect to the method of pricing used for Unifonds shares, Union-Investment represents that little potential exists for investors to speculate on raising or falling prices on the Frankfurt Stock Exchange. In addition, Applicant also notes that this method of pricing is common for West German funds.

Finally, Applicant requests an exemption from Section 17(f) of the Act. Applicant represents that, under West German law, Union-Investment must keep its assets in West Germany in a West German custodian bank, which plays a substantial regulatory role. Applicant further represents that, while Unifonds' custodian bank is not regulated by U.S. laws, it is regulated pursuant to the German Banking Act, and West German law provides protections equivalent to those provided by Section 17(f) and the rules thereunder by requiring that: (1) The custodian bank keep Unifonds' assets in a restricted account where they cannot be pledged, assigned, encumbered or transferred except for the account of Unifonds; (2) the BAK approve the selection of the custodian bank and remove it if it is unqualified to perform its regulatory functions; (3) the custodian bank keep vouchers reflecting the value, date, object of and parties to each transaction in Unifonds' account; (4) the BAK or Bundesbank (the West German banking regulatory agency) appoint an auditor to perform a regular audit of the Unifonds account including an examination of its portfolio transactions; (5) Union-Investment be liable to Unifonds for assets stolen or embezzled by any employee, including the four members of its Board of Managers or by Unifonds' fund manager, who are the only five persons with access to Unifonds' assets; and (6) Unifonds' cash deposits be protected against a bank failure by the Deposit Protection Fund.

Therefore, Applicant submits that granting it the exemptive relief it has requested under Section 6(c) of the Act is appropriate in the public interest and consistent with the protection of investors.

Notice is further given that any interested person may, not later than December 27, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or such person may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and

orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34656 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan No. 2072]

Arkansas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Conway, Faulkner, Garland, Independence, Jackson, Lawrence, Ouachita, Pope, Pulaski, Randolph, Saline, Sharp, Van Buren and White, Arkansas, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on December 2, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983, at: U.S. Small Business Administration, 320 West Capitol Avenue, Suite 601, Little Rock, Arkansas 72201, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	13⅜
Homeowners without credit available elsewhere	6⅞
Businesses with credit available elsewhere	11½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11⅜

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 15, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-34678 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2073]

Illinois; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Brown, Bureau, Calhoun, Cass, Clinton, Fulton, Greene, Grundy, Jersey, LaSalle, Livingston, Madison, Marshall, Mason, Morgan, Peoria, Pike, Putnam, Schuyler, Scott, Tazewell and Woodford, Illinois, consitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on or about December 2, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983, at: U.S. Small Business Administration, 219 South Dearborn Street, Room 438, Chicago, Illinois 60604, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	13⅜
Homeowners without credit available elsewhere	6⅞
Businesses with credit available elsewhere	11½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11⅜

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 16, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-34673 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2071]

Missouri; Declaration of Disaster Loan Area

As a result of the president's major disaster declaration, I find that the Counties of Bollinger, Cape Girardeau, Carter, Franklin, Iron, Jefferson, Lincoln, Perry, Phelps, Pulaski, Ripley, St. Charles, Ste. Genevieve, St. Louis and Wayne, in the State of Missouri, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on December 1, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 10, 1983, and for economic injury until the close of business on September 12, 1983, at: U.S. Small Business Administration, 12 Grand Building, 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106, or U.S. Small Business Administration, 815 Olive Street, Room 242, St Louis, Missouri 63101, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	13⅜
Homeowners without credit available elsewhere	6⅞
Businesses with credit available elsewhere	11½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11⅜

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 13, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-34677 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5454]

Roedal Associates, Inc.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Roedal Associates, Inc., 77-51 141st Street, Flushing, New York 11367, with the Small Business Administration (SBA), pursuant to (13 CFR 107.102;)(1982).

The officers, and directors of the Applicant are as follows:

President, Director (⅓%)
Robert Cohn, 280 Dolphin Drive, Woodmere, New York 11598
Vice President, Director, Secretary (⅓%)
Edward Cohn, 194 Harbor View, S., Lawrence, New York 11559
Vice President, Treasurer, Director (⅓%)
Alan Cohn, 303 East 57th Street, New York, New York 10022

The Applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and

long-term loans for qualified small business concerns.

The Applicant will conduct its operations principally in the State of New York.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balance national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Flushing, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 14, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34674 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

Interest Rates

The interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is eleven and five-eights (11⅝) percent for the fiscal quarter beginning January 1, 1983.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the January-March quarter of 1983, this rate will be eleven and one-fourth (11¼) percent.

Dated: December 16, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-34676 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-5268]

W.C.C.I. Capital Corp.; License Surrender

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), W.C.C.I. Capital Corporation, 791 Main Street, Worcester, Massachusetts 01610, incorporated under the laws of the State of Massachusetts, has surrendered its License No. 01/01-5268, issued by the SBA on December 6, 1972.

W.C.C.I. Capital Corporation has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of W.C.C.I. Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 14, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34675 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before January 24, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416; Telephone: (202) 653-8538.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503; Telephone: (202) 395-4814.

Title: Certificate of Prior Loan Status by Applicants for Disaster Temporary Employment.

Form No.: SBA 1335.

Frequency: Nonrecurring.

Description of Respondents: Applicants for employment as disaster temporaries.

Annual Responses: 500.

Annual Burden Hours: 10.

Type of Request: New.

Dated: December 16, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-34679 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

UNITED STATES INFORMATION AGENCY

Advisory Panel on International Educational Exchange

The Advisory Panel on International Educational Exchange will hold its second meeting on Monday, January 17, 1983 at Youth for Understanding headquarters located at 3501 Newark Street, Northwest, Washington, D.C. from 9:00 a.m. until 5:30 p.m.

The Advisory Panel will meet to discuss the following agenda:

9:00 a.m.-10:30 a.m.: International educational exchanged programs in the fields of engineering and science.

10:45 a.m.-12:30 p.m.: International educational exchange programs in the social sciences.

2:30 p.m.–5:30 p.m.: International educational exchange programs from the perspective of the Congress of the United States.

Additionally, the Advisory Panel will review information received about the work of other advisory committees and fora in the field of international education.

Members of the public who wish to attend the meeting must reserve a seat by January 12, 1983 by calling Christopher Paddack at (202) 724–9849. Space is limited and the public will be admitted on a space available basis by prior reservation.

Stephen A. McKnight,

Director, Office of Academic Programs, U.S. Information Agency.

Mary Jane Winnett,

Management Assistant.

December 10, 1982.

[FR Doc. 82-34855 Filed 12-21-82; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 246
Wednesday, December 22, 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).

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1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 56434, Thursday, December 16, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday December 21, 1982.

CHANGES IN THE MEETING: Rescheduled to 10 a.m., Tuesday January 4, 1983.

[S-1848-82 Filed 12-20-82; 11:26 am]

BILLING CODE 6351-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2 p.m., Monday, December 20, 1982.

LOCATION: Eighth Floor Conference Room, 1111 18th Street, NW., Washington, DC.

STATUS: Closed to the public:

Statutory Review

The Commissioners and staff will discuss matters related to statutory review.

The Commission voted that agency business required the holding of this meeting without the normal notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301-492-6800.

[S-1849-82 Filed 12-20-82; 1:15 pm]

BILLING CODE 6355-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:20 p.m. on Thursday, December 16, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Security State Bank, Mooreland, Oklahoma, which was closed by the Bank Commissioner of the State of Oklahoma on December 16, 1982; (2) accept the bid for the transaction submitted by First State Bank of Mooreland, Mooreland, Oklahoma; (3) approve the applications of First State Bank of Mooreland, Mooreland, Oklahoma for Federal deposit insurance, and for consent to purchase the assets of and assume the liability to pay deposits made in The Security State Bank, Mooreland, Oklahoma; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 17, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1850-82 Filed 12-20-82; 1:41 pm]

BILLING CODE 6714-01-M

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TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10:30 a.m. (e.s.t.), Wednesday, December 22, 1982.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

MATTER FOR ACTION:

Power Item

Consideration of arrangements to be applicable following the expiration on December 31, 1982 of: (1) The New Fontana Agreement and (2) a contract with Nantahala Power and Light Company. In addition to proposed interconnection arrangements with Nantahala Power and Light Company, proposed exchange power arrangements with Tapoco, Inc., and a proposed power contract with Aluminum Company of America, consideration will be given as to conditions under which TVA: (1) Would continue to make power available to Nantahala in the absence of the proposed long-term agreement and (2) would acquire energy generated by Tapoco in excess of Tapoco's needs in the absence of the proposed long-term exchange arrangements.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: December 20, 1982.

Approved:

C. O. Dean, Jr.,

S. David Freeman,

Richard M. Freeman.

[S–1851–82 Filed 12–20–82; 2:44 pm]

BILLING CODE 8120–01–M

federal register

Wednesday
December 22, 1982

Part II

Department of Energy

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Final Rule for Clothes Dryers and Kitchen Ranges and Ovens

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-78-110 (Partial)]

Energy Conservation Program for Consumer Products; Final Rule for Clothes Dryers and Kitchens Ranges and Ovens

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: As a general matter, the Energy Policy and Conservation Act, as amended (EPCA), requires the Department of Energy to prescribe an energy efficiency standard for each of thirteen major household appliances, unless DOE determines by rule that a standard for a product will not result in significant conservation of energy, is not technologically feasible, or is not economically justified. On April 2, 1982, DOE published a proposed rule that would determine that for eight products an energy efficiency standard would not result in a significant conservation of energy or be economically justified. The April 2 proposed rule also proposed procedural rules governing how States could petition for exemption from the preemption of State and local efficiency or energy use standards and how manufacturers could petition for a rule to preempt State or local efficiency or energy use standards.

In a settlement agreement in a suit brought in the United States District Court for the District of Columbia by the Natural Resources Defense Council and Consumers Union, DOE agreed to issue a final rule with respect to the eight products by October 29, 1982. It was provided that this deadline could be modified for good cause upon approval by the court, but that in the case of delay DOE should issue by the October 29 deadline any segregable portion of the rule that could be completed without additional time and without further delaying the uncompleted aspect of the rulemaking. Consequently, DOE is today issuing a final rule with respect to clothes dryers and kitchen ranges and ovens in which DOE determines that an energy efficiency standard for either of these products would not result in a significant conservation of energy and would not be economically justified. In addition, DOE is adopting a final rule with respect to the procedures by which States may obtain exemption for State or local efficiency standards that are statutorily preempted as a result of a final rule with respect to energy efficiency standards and procedures by which manufacturers may obtain a rule to preempt a State or local efficiency standard for which there is no Federal final rule.

The rulemaking with respect to the other six products continues, and DOE is investigating as a result of public comment various aspects of several of the computer models relied upon in the April 2 proposed rule.

DATES: Except for Section 430.32, the effective date of this rule is January 21, 1983. Section 430.32 is effective June 20, 1983, except in a State that has filed pursuant to Subpart D a notice of petition before February 22, 1983, and a petition before April 21, 1983, the effective date of Section 430.32 is the date on which DOE issues or denies a final rule concerning that petition.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Building Energy Research and Development Division, Test and Evaluation Branch, Mail Station CE-113, Room GH-068, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-9127

Lona Feldman, Assistant General Counsel for Conservation and Renewable Energy, U.S. Department of Energy, Mail Station GC-33, Room 6B-194, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-9507,

or

William Funk, Assistant General Counsel for Regulatory Oversight, U.S. Department of Energy, Mail Station GC-12, Room 6A-141, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-6736

I. Introduction

a. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619),[1] creates the Energy Program for Consumer Products Other Than Automobiles. The consumer products subject to this program (often referred to hereafter as "covered products") are: refrigerators and refrigerator freezers; freezers; dishwashers; clothes dryers; water heaters; room air conditioners; home heating equipment, not including furnaces; television sets; kitchen ranges and ovens; clothes washers; humidifiers and dehumidifiers; central air conditioners; and furnaces, as well as any other consumer product classified by the Secretary of Energy, if the product uses a specified minimum amount of energy. *See* Section 322. The Secretary has not so classified any additional products.

Under the Act the program consists essentially of three parts; testing, labeling, and mandatory minimum energy efficiency standards. The Department of Energy, in consultation with the National Bureau of Standards, is required to establish test procedures for each of the covered products. Section 323(a)(2). The purpose of the test procedures is to provide for test results that reflect the energy efficiency, energy use, or estimated annual operating costs of each of the covered products. Section 323(b)(1). All test procedures were required to be adopted not later than May 1, 1978. Section 323(a) (4) and (6). A test procedure was not required if DOE determined by rule that one could not be developed. Section 323(a)(6)(B). One hundred and eighty days after a test procedure for a product is adopted, no manufacturer may represent the energy consumption of or the cost of energy consumed by the product except as reflected in a test conducted according to the DOE procedure. Section 323(c). Test procedures have been prescribed relating to all products, but, on the basis of continuing review, certain classes of products do not have currently applicable test procedures.

The Federal Trade Commission (FTC) is required by the Act to prescribe rules governing the labeling of the covered products. Section 324(a). These rules are to require that each particular model of a covered product bear a label that indicates its annual operating cost and the range of estimated annual operating costs for other models of that product. Section 324(c)(1). A rule is not required under Section 324 if the Secretary of Energy determines that disclosure of estimated annual operating costs on a label is not technologically feasible or if the FTC determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. Section 324(c). No labeling rule can be made with respect to a product for which there is no DOE testing procedure. Section 324(b)(3). At the present time there is an FTC rule requiring labels under the Act for the following products: room air conditioners, furnaces, clothes washers, dishwashers, water heaters, freezers,

[1] Part B of Title III of EPCA, as amended by the NECPA, is often referred to in this notice as the "Act."

and refrigerators and refrigerator-freezers.[2] The FTC has proposed a rule to require labels for central air conditioners which has not been made final.

For each of the covered products, DOE is required to establish mandatory energy efficiency standards that are designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325(a) (1) and (c). The Act provides, however, that no standard for a product is to be established if there is no test procedure for the product, or if DOE determines by rule either that a standard would not result in significant conservation of energy or that a standard is not technologically feasible or economically justified. Section 325(b). In determining whether a standard is economically justified, the Department is directed to determine whether the benefits of the standard exceed its burdens by weighing six specific factors, as well as any other factors DOE considers relevant. Section 325(d). The factors are:

(1) The economic impact of the standard on the manufacturers and on the consumers of the product subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered product in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of the covered products which are likely to result from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, determined in writing by the Attorney General, that is likely to result from the imposition of the standard; and

(6) The need of the Nation to conserve energy.

A rule establishing an energy efficiency standard for a product may set different levels of efficiencies for different classes [3] of that product if they use a different kind of energy or have different capacity or performance related features that justify different levels of efficiencies. Sec. 325(f). When a standard has been established, DOE may exempt a manufacturer whose gross revenues in the preceding year did not exceed $8 million from the effect of the standard for up to two years, if DOE determines, after obtaining the views of the Attorney General, that failure to grant the exemption would likely result in a lessening of competition. Section 325(e).

The Act specifies the priorities and procedures to be followed in adopting efficiency standards. Nine of the 13 covered products are given priority under the Act. Section 325(g). These nine products are: refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (other than furnaces), kitchen ranges and ovens, central air conditioners, and furnaces.

The procedures include a requirement for an advance notice of proposed rulemaking upon which interested persons may make written comments. Section 325(i)(1). Thereafter, there is to be a notice of proposed rulemaking, upon which interested persons may make written and oral comments, including an opportunity to question those who make such comments with respect to disputed issues of material fact. Section 325(i)(3) and Section 336(a)(1).

Section 327 of the Act addresses the effect of Federal rules concerning testing, labeling, and standards on State laws or regulations concerning such matters. Generally, all such State laws or regulations are superseded by the Federal rule. Section 327(a). A rule by DOE that an efficiency standard is not technologically feasible, economically justified, or likely to save significant amounts of energy is a rule that supersedes any State standard. Section 325(b). If, because there is no Federal rule, a State efficiency standard is not superseded, persons subject to it may petition DOE to have it superseded on the basis that there is no significant State or local interest sufficient to justify the regulation and such regulation unduly burdens interstate commerce. Section 327(b)(1). A State whose energy efficiency standard is superseded may petition the Department for a rule that it not be superseded, on the basis that there is a significant State or local interest to justify the standard and the State standard is a stricter standard. However, DOE cannot issue the requested rule if the State standard would unduly burden interstate commerce. Section 327(b)(3).

b. Background

The DOE published its advance notice of proposed rulemaking pursuant to Section 325(i)(1) for the nine first priority products on January 2, 1979 (44 FR 29). On December 13, 1979, the DOE published an advance notice of proposed rulemaking for dishwashers, television sets, clothes washers, and humidifiers and dehumidifiers (44 FR 72276). An advance notice for central air conditioners (heat pumps) was published on January 23, 1980 (45 FR 5602). These advance notices were designed to present a full discussion of the Department's views concerning the standards program and the process for its implementation. DOE also set forth its views concerning the criteria for selecting classes in each product type and the maximum technologically feasible efficiency standard for each class of product. DOE specifically requested comments on all matters presented in the advance notices. Meetings were held throughout 1979 and 1980 to solicit the views of all concerned parties.

After receiving comments on the advance notices, on June 30, 1980, the DOE set forth its first proposed rulemaking for the nine products (45 FR 43976). (Hereafter referred to as the June 1980 proposal.) The June 1980 proposal set forth the DOE's proposal concerning energy efficiency standards for these covered products. It also proposed procedures for processing petitions by States that sought exemption for regulations subject to the general preemption requirements of Section 327(a) of the Act. The June 1980 proposal considered comments received in response to the advance notice on these nine products and made changes in the DOE's initial determinations concerning classes for each covered product and the methods for determining energy efficiency standards. The June 1980 proposal was based upon five technical support documents which were made available for public review.

To encourage public participation in the rulemaking process, the DOE held a series of public meetings and hearings, starting in July 1980. Public hearings were conducted in Chicago and Washington in August 1980. As a result of these hearings and the solicitation of written comments, over 1800 comments were received on the June 1980 proposal. These comments addressed all aspects of the rulemaking proposal including the establishment of classes in each covered product type, the feasibility of the standards selected for each covered product, the validity of the assumptions made in the technical support documents, the procedure for seeking exemptions for State regulations from preemption by the Federal standard, the effective date of a final regulation, the propriety of standards for small

[2] 44 FR 66475 (November 19, 1979).

[3] Each covered product category may be made up of several classes.

businesses, whether alternatives to regulations were practical, and the proposal for certification and enforcement procedures.

On December 17, 1980, the Department notified the Congress of its inability to make a final determination on the imposition of energy efficiency standards on the nine covered products by the deadline of January 2, 1981. On February 23, 1981, DOE published a notice of its intent not to issue any energy efficiency standard until it fully studied the comments recieved on the June 30 proposal and made a thorough reassessment of the data supporting the proposal (46 FR 13517).

On April 2, 1982, DOE issued a further Notice of Proposed Rulemaking with respect to the nine priority products (47 FR 14424). (Hereafter referred to as the April 2 proposal.) With respect to eight of the products DOE proposed to make a determination that a standard would not result in a significant conservation of energy and would not be economically justified.[4] The April 2 proposal also proposed rules governing petitions to DOE both by States to obtain exemption from premption of State or local energy efficiency standards as well as by manufacturers to obtain preemption of State or local standards. Two technical support documents—an Economic Analysis and an Engineering Analysis—supported the proposal.

Hearings were held on the April 2 proposal over three days in Washington, D.C. in which 39 persons presented statements. Over 130 written comments were received during the initial comment period, and 36 additional written comments were made on earlier submitted comments.

In October 1981, the Natural Resources Defense Council (NRDC) and Consumers Union of the United States, Inc., brought suit against DOE for DOE's failure to adopt a final rule for the nine priority products by the statutory deadline of January 2, 1981. A settlement agreement adopted by the parties required DOE to adopt a final rule for these products (except home heating equipment other than furnaces) by October 29, 1982. The agreement provided, however, for a modification of that deadline for good cause as approved by the court. Nevertheless, the agreement required that, if the entire rule could not be adopted by October 29, DOE would issue those segregable portions of the rule that could be issued.

II. Discussion

a. General

As indicated above, the court-approved settlement agreement required DOE to issue by October 29, 1982, at least those segregable portions of the rule that could be issued by that date without delaying the other parts of the rule. After reviewing the comments received as a result of the April 2 proposal, DOE determined that questions raised and comments made concerning the Oak Ridge National Laboratory Residential Energy End Use Model (ORNL Model) and its projection of energy savings attributable to standards were substantial and significant. After an initial analysis to determine the scope of the potential problems with the Model and possible responses, it became clear that the time and analysis required to address these questions and comments made with respect to the ORNL Model would preclude adoption of final rules for the eight products by October 29, 1982.

The ORNL Model is the computer model that projects the energy savings attributable to a standard for a product. Moreover, other outputs of the Model are used in the Financial Impact Model and other analyses. Consequently, the validity of the ORNL Model is a critical factor in assessing possible standards for most products. With respect to two products, however, in light of all the comments received as well as the minimal level of energy savings predicted in each iteration of the ORNL Model, DOE determined that there was substantial evidence in the record to support a conclusion that an energy efficiency standard would neither result in a significant conservation of energy nor be economically justified. The two products are clothes dryers and kitchen ranges and ovens.

As indicated above, the April 2 proposal also included a provision regarding the preemption of State and local energy efficiency standards and the procedures for petitions for preemption or for exemption from preemption. While there was substantial comment on this aspect of the April 2 proposal, the comments were of a nature that could be addressed and responded to in a reasonable period of time.

Consequently, DOE is adopting a final rule with respect to clothes dryers and kitchen ranges and ovens and with respect to preemption of State and local law. The preemption final rule applies not only to these two products but will also apply to all other covered products when final rules for those products are promulgated.

At the present time, because the nature of the problems being assessed with regard to the ORNL Model, DOE is unable to project with any certainty when a final rule on the remaining six products will be issued.

b. Methodology

1. *Determination of Energy Savings.* In the April 2 proposal DOE quantified the energy savings that would be attributable to a standard imposed at each of the analyzed levels of efficiency for each product. This was done through use of the ORNL Model. The ORNL Model is fully explained in the Economic Analysis Document which accompanied the April 2 proposal, *see especially* Appendix E. This model was used to project residential energy use of a product with and without standards. In the April 2 proposal the period of analysis was the period 1987–2005. By comparing the energy used without a standard during this period to the energy used with a particular standard during the same period, DOE estimated the amount of energy saved during that period due to that standard. The energy saved was expressed in Quads (quadrillion BTUs).

As indicated above, certain aspects of the ORNL Model were subjected to some criticism in the comments on the April 2 proposal. Probably the issue that attracted the greatest attention was the Model's treatment of the relationship between energy prices and the market's responsiveness in producing and selling more energy efficient products. This relationship was reflected in the Economic Analysis Document (EAD) accompanying the April 2 proposal in terms of the so-called implicit discount rate, *see* pp. 46–47, EAD. The initial relationship between life cycle cost and the efficiency of models in the current market was given as an initial implicit discount rate, and the change in the relationship over time was characterized by a formula, *see* p. 46, EAD, which had the effect of changing the implicit discount rate as energy prices changed, *see* p. 52, EAD.[5] Both the

[4] The April 2 proposal did not propose any rule with respect to the product type "home heating equipment, not including furnaces" or with respect to that class of the product water heaters made up of heat pump water heaters or with respect to those classes of the product central air conditioners that are heat pumps.

[5] The implicit discount rate is neither an input to nor a formula in the ORNL Model. That is, nothing in the Model is driven by the implicit discount rate. Rather, the implicit discount rate is an output that can be derived by the Model, and in the April 2 proposal the implicit discount rate was used as a shorthand method of expressing the market distortion that does drive parts of the Model. The formula did not act on the implicit discount rate itself, but on the market distortion, which had the effect of changing the implicit discount rate.

initial implicit discount rates and the formula that resulted in their change were criticized as being allegedly unsupported by data or other studies. The initial implicit discount rates were considered to be too high by several manufacturers and their representatives, while the formula was criticized by environmental and consumer groups. Because of the seriousness of these comments, DOE is studying these matters thoroughly. Nevertheless, notwithstanding the criticisms of the ORNL Model, it appeared that with respect to savings attributable to standards for clothes dryers and kitchen ranges and ovens, these comments and criticisms were not directly relevant.

First, the initial implicit discount rates for clothes dryers and ranges and ovens were not criticized as being too high and were not totally outside the range of what other scientists have estimated as the implicit discount rates for home appliances. Second, unlike the other six products analyzed, the effect of the contested formula on clothes dryers and kitchen ranges and ovens was to increase the implicit discount rate as energy prices increased, which would have the effect of increasing energy savings attributable to standards. *See* p. 52, EAD. That is, commenters like the NRDC that complained about the formula did so because it generally reduced the savings attributable to standards by increasing market responsiveness to higher energy prices in terms of efficient products. With respect to clothes dryers and kitchen ranges and ovens, however, as energy prices rise the formula indicates that the market unaccountably becomes less responsive in terms of efficient products. Consequently, with respect to both the initial implicit discount rate and its change with higher energy prices, the ORNL Model's behavior in terms of clothes dryers and kitchen ranges and ovens is not generally at odds with the commenters' major criticism of the Model.

Nevertheless, in order to ensure that any possible problems with the ORNL Model would not invalidate the conclusions for these two products, DOE ran two sensitivity analyses. The first analysis substitutes the historical trend in efficiency improvements of a product for the Model's derived projections based on a relationship between life cycle costs and the efficiency of the product. The second analysis increases the initial implicit discount rate by 100 percent and then holds it constant,[6] which has the dual effect of greatly increasing the initial implicit discount rate and eliminating any effect of the disputed formula.[7] Both of these sensitivity analyses were chosen because they replace the existing ORNL methodology for determining the efficiencies of products in future years in the absence of standards with methodologies that are perhaps more pessimistic as to market responsiveness to higher prices. The results of these two analyses, as well as the normal ORNL Model projection, are provided in the product specific analyses.

In addition to the major criticisms of the ORNL Model mentioned above, there were some comments on the Model that DOE is now able to respond to because of their relative simplicity. Consequently, in light of comments on the April 2 proposal and its own analysis DOE has already made changes to the Model in four areas and will make a change in a fifth area.

They are: energy price forecasts; housing forecasts; income forecasts; energy consumption of products being retired from stock; and marketplace behavior in the standards case.

A. *Energy Price Forecasts.* The energy price projections used in the April 2 proposal were from the National Energy Policy Plan, DOE/S-008, July 1981, pp. 3-24 (hereafter referred to as "NEPP III.") A number of commenters, including the General Accounting Office (GAO),[8] commented that DOE used energy price projections significantly higher than energy price assumptions of certain private organizations. DOE has always used throughout these various rulemaking proceedings the most recent, and in DOE's view the most reliable, energy price forecasts. Consistent with this approach, the current analysis makes use of the energy price projections from the Energy Information Administration's 1981 Annual Report to Congress, February 1982 (DOE/EIA-0173(81)/3). The table below shows the historical energy prices and energy price projections for each of four fuel types used in this analysis.

HISTORICAL AND PROJECTED ENERGY PRICES [1]

[Dollars Per 10^6 BTU]

	1977	1980	1985	1990	1995	2000	2005
Electricity [2]	4.18	4.66	5.10	5.25	5.47	5.70	5.92
Natural gas	2.89	3.83	5.40	7.43	8.73	10.03	11.33
Residential distillate	4.40	7.05	7.69	10.70	14.01	17.32	20.63
Liquid gas	4.19	6.09	6.55	9.30	12.38	15.46	18.54

[1] In 1980 dollars.
[2] 11,500 BTU=1 kw-h.

The energy price projections used in the analysis generally tend to be lower in the near term (through 1990) then NEPP III and are higher in the out years (beyond 1990). DOE has not compared these most recent EIA projections with projections from private organizations. The forecasts made by EIA are made totally independent of and without relation to this rulemaking. Under the Department of Energy Organization Act, EIA's statistical and forecasting reports are not allowed to be subjected to prior approval requirements outside of EIA, thereby assuring the necessary independence and neutrality of its forecasts, which become in effect the official government forecasts.

B. *Income Forecasts.* While no commenter specifically mentioned the income forecast used in the April 2 proposal, DOE has updated the forecast by using the more recent data that went into EIA's energy price forecasts discussed above. Again, DOE use these data in order that the ORNL Model results are based upon the most recent data and a consistent set of input.

C. *Housing Construction Forecasts.* A number of comments were received that DOE's forecasts of housing construction were not consistent with recent history and that they were higher than other forecasts. For the April 2 proposal, the ORNL Model projected that the number of households would increase from 73

[6] Above, it was explained that in the ORNL Model the implicit discount rate was not an input or driving force in the Model. Rather, it was an output of the Model. In this sensitivity analysis, however, the implicit discount rate is used as an input, overriding the Model's normal method of computing product shipments' efficiencies.

[7] DOE has no basis for believing that the initial implicit discount rates for the two products in today's rule or the other products are too low. To the contrary as noted above, if anything, initial implicit discount rates for the other products were deemed too high by a number of commenters. By including a sensitivity analysis that increases the initial implicit discount rates by 100 percent for these two products, DOE is not suggesting that this is even a reasonable scenario. It is intended merely to demonstrate beyond cavil that neither of these two products would save a significant amount of energy even if the initial implicit discount rate were vastly inflated.

[8] See GAO report EMD-82-78; May 14, 1982, Appliance Efficiency Standards: Issues Needing Resolution by DOE (hereafter "GAO Report").

million in 1976 to 105 million in 2000, with an average growth rate of 1.6%/year, resulting in annual additions of approximately 2 million units per year. *See* Table E–9, EAD. Recent data shows that housing construction has been averaging approximately 1 million units per year, and a lower level than initially projected is expected to continue. Comparison of the ORNL Model's projections of housing construction in the year 1980 shows that the Model projected more than 25 percent more construction than occurred. Therefore, DOE believes that the use of the ORNL Model projection of housing construction results in an overestimation. DOE, accordingly, is substituting for the ORNL housing submodel the residential construction forecast of the MASTER Model developed by DOE independently of this rulemaking or program.[9] The residential construction forecasts made by the MASTER model for selected years are shown below:

ANNUAL ADDITIONS

Building category	1980	1985	1990	1995	2000	2005
Single Family (millions of units)	.80	.80	.97	.90	.90	.90
Multi-Family (millions of units)	.48	.47	.51	.48	.45	.46
Mobile Homes (millions of units)	0.26	0.26	0.27	0.26	0.30	0.32

D. *Energy Use of Retiring Appliances.* The ORNL Model in the April 2 proposal used a retirement function that was based on a vintaging concept that kept track of the age distribution of appliances and retired appliances as a function of the number of years since they were originally purchased. *See* p. 412, EAD. However, the per unit energy use of the retiring appliances was left equal to the average energy use of the existing stock at the time of retirement. This treatment of the per unit energy use is inconsistent with the concept of vintaging that underlies the retirement formula. Therefore, DOE has revised the appliance retirement forecast to use the same vintaging approach to the energy use of retiring appliances as was used to calculate appliance retirements. This retirement formulation better approximates what is occurring in the marketplace.

E. *Market Behavior in the Standards Case.* The GAO said DOE was inconsistent in its treatment of market forces between the base case and the standards cases. GAO stated that DOE "assumed the market would not improve appliance efficiency once a minimum standard was put in place, unless average efficiency in the base case exceeded the standard." GAO Report, at 13–14. This comment correctly described the way the ORNL Model treated the shipment weighted energy factor (SWEF) for products in the years following imposition of standards. DOE concurs in GAO's conclusion that this is inconsistent with the method of projecting market behavior in the base case. Accordingly, DOE will make changes in the Model to project market behavior in the standards case after the imposition of standards. That is, the shipments that in the base case would be below the standards level will be set at the standards level in the standards case, and the shipments that in the base case would be at levels higher than the standard will continue as if unaffected by the standards.

This change, however, involves recoding the Model—an activity that is more complex than the input changes noted above and that, in order to issue this rule as soon as possible, has not yet been accomplished. To ensure that this fault in the ORNL Model does not invalidate the conclusiens as to savings and net present benefits for ranges and ovens and clothes dryers, DOE ran a third sensitivity analysis. This analysis holds the efficiency of the appliances constant in the base case beginning in the year 1987—the year standards would begin—through the period analyzed. In this way, the inconsistency between the base and standard case criticized by GAO is eliminated by eliminating from the base case efficiency improvements stimulated by the market. The results of this sensitivity analysis are presented in the product-specific discussion.

2. *Economic Impact.* To assess the economic impacts on consumers that would occur generally from the adoption of standards for the April 2 proposal, DOE conducted a life-cycle cost (LCC) analysis and a net present value (NPV) analysis. The LCC analysis calculated the total cost of ownership for consumers for each class of product. A number of commenters on the April 2 proposal stated that the LCC analysis should have been conducted with marginal rather than average costs. While the Act does not specifically address whether life-cycle costs should be calculated with marginal or average costs, DOE believes that it requires average costs since it directs the Secretary to calculate the savings in operating costs to the consumer. *See* Section 325(d)(2). The savings in operating costs to the consumer are better reflected by average costs than marginal costs.

The life cycle cost analysis performed for the April 2 proposal showed that for most classes of clothes dryers and kitchen ranges and ovens the life-cycle costs at the various standards levels considered were greater than that for the average product sold in 1978. No comments were received disputing this increase in life-cycle costs. DOE has not revised the LCC analysis because, given the changes in energy prices, the use of the later energy prices would not change the conclusion of the April 2 LCC analysis that life-cycle costs for most classes of these two products would increase.

The ORNL Model was used to calculate the differential economic impacts on purchases of a product through a net present value analysis. The ORNL Model calculates the total cost for each product with and without standards. The total costs include the discounted total value of energy consumption from 1987 through the last year of use for those products purchased through the year 2005 plus the total discounted equipment costs of equipment purchased from 1987 through 2005.

The NPV calculation was repeated for today's rule with the changes described in II. b.1 above. DOE did not conduct a separate analysis to determine what effect each change had on the results of the analysis.

c. Significance of Energy Savings

The Act prohibits DOE from adopting a standard for a product if, by rule, DOE determines that a standard would not result in a significant conservation of energy. In the April 2 proposal, DOE explained that the Act did not define or

[9] The Master Model forecasts national variables by first forecasting for each SMSA and Rest-of-State (ROS) area in the contiguous United States and then aggregating the results. The national residential construction forecast was prepared in this manner. For each SMSA and ROS area, construction in the following five residential categories was forecast: (1) single-family detached; (2) duplexes; (3) three- and four-unit apartments; (4) five or more unit apartments, one-three stories; (5) five or more unit apartments, four or more stories. The latter four categories were combined for the purposes of this forecast into multi-family residences. Forecasts of single-family residential and multi-family residential construction were then aggregated to national totals.

explain what would constitute a "significant" conservation of energy and that, accordingly, DOE believed the Act intended for DOE to exercise its informed judgment in determining what level of savings would be significant.

The April 2 proposal contained three different proposed tests to determine if a standard would result in a significant conservation of energy. It was proposed that if a standard for a product would meet any one of the three tests, then the savings attributable to that standard would be deemed significant. The three tests were generally described as: whether savings of oil or gas are large enough to decrease meaningfully this Nation's reliance on foreign sources of energy; whether savings of electricity are large enough either to reduce significantly new generation requirements or to affect significantly the environment; and, whether a standard would result in a product using 20 percent less energy than it would absent a standard. Specifically, the first test was whether over the nineteen-year period 1987–2005 the savings attributable to a standard for a product would average 10,000 barrels per day (bpd) of oil or the natural gas equivalent of 10,000 bpd of oil. The second test was whether over the same period the total savings of electricity attributable to a standard for a product would constitute one percent of the total U.S. electrical supply. The third test was whether over the same period the energy usage by a product if a standard were imposed would be 20 percent less than the energy usage by that product if no standard were imposed.

Commenters that supported the April 2 proposal generally supported each of the three tests and the rationales behind each. On the other hand, commenters that opposed the April 2 proposal with respect to one or more products generally did not support the three tests or their rationales.[10] While each of the tests received substantial comment, a number of comments were not necessarily directed to any one of the tests.

As indicated above, each of the three significance tests measured the projected savings attributable to a standard over the period 1987–2005, the period of the analysis made by the ORNL Model in the April 2 proposal. Some commenters, such as the NRDC, believed that nineteen years was too long, while others, such as the American Council for an Energy Efficiency Environment (ACEEE), felt the period was too short. Some of those who felt the period was too long believed that "the savings are . . . diluted by modeling assumptions concerning market behavior in later years." (NRDC, May 20, 1982, at 6). The NRDC suggested a five-year period, citing the five-year review requirement of Section 325(h) of the Act. Those who believed the nineteen-year period too short mentioned that it was shorter than the useful life of furnaces and therefore did not permit a full turnover of the equipment stock. DOE has considered these comments and has concluded that the same fixed-year period for all products is not appropriate. Because many of these products have useful lives of different lengths, their turnover rates are different. The turnover rate can directly affect the penetration rate of new appliances of the product type, and the penetration rate of new appliances will affect the energy savings attributable to standards. Consistent with the thrust of several of the comments, DOE is adopting the average life of the product as the appropriate period over which to measure savings. *See* EAD, Table 3–3. Thus, the period for furnaces will be longer than nineteen years, as suggested by ACEEE, while the period for most products will be shorter than nineteen years, as suggested by several other commenters. By adopting the average life of a product as the appropriate period for analyzing that product's savings, DOE assures that the savings analysis will be neutral as to differences in penetration rates attributable to retirement and replacement of products.

DOE does not believe the use of the suggested five-year period is appropriate because (1) it would be a fixed year period for all products with the problems mentioned above; (2) the five-year review mentioned in the Section 325(h) of the Act would occur five years after publishing the standard or, in other words, before the standard would have any meaningful impact on the products in use; and (3) as several commenters stated, it was simply too short a period for an adequate analysis.

Several commenters were of the view that it was improper for DOE to measure the significance of the energy savings of each of the products separately. Rather, these commenters suggested that the total projected savings attributable to standards for all products should be the figure to be considered significant. DOE does not believe the Act allows for such an interpretation. Section 325(b) states "[n]o standard for a type (or class) of covered products shall be prescribed . . . if . . . the establishment of such standard will not result in significant conservation of energy. . . ." This language makes clear that the determination of whether a standard will save significant energy is to be made on an individual product type basis, not on the basis that standards for all products together would save significant energy.

Another criticism made by some commenters was that allegedly one or more products were technically incapable of meeting one or more of the significance tests. DOE does not believe such criticism is well founded. If the savings attributable to a standard for a product cannot meet a particular test for significance because the technologically feasible improvements are insufficient to produce a large amount of savings, this is not by itself evidence of a fault of the significance test. Congress, in specifying certain products concerning which DOE would be required to conduct standards rulemakings, did not prejudge or determine that a standard for any or all of these products could in fact result in a significant conservation of energy. Rather, the specific products named were included because of the amount of energy they used. Whether a standard was appropriate, i.e., among other things whether it would result in a significant conservation of energy, was to be determined by DOE. For example, in both the June 1980 and April 2 proposals DOE proposed no standard for electric furnaces because no improvements would save any energy. No commenter has disputed this conclusion. Similarly improvements to efficiency in other products may save only a small amount of energy. It is clear, however, that the fact that the potential savings are too small to meet one or more of the significance tests does not constitute a fault with the test.

Moreover, the fact that a particular product does not use enough energy to be able feasibly to meet the oil or gas and electricity tests does not suggest the inappropriateness of those tests. The NOPR acknowledged that the oil or gas and electricity savings tests had a natural bias toward products that use a large amount of those fuels. That is, a relatively small improvement in energy efficiency attributable to a standard for a product that uses a large amount of

[10] Many of the commenters that took issue with the three tests alleged that, even so, if the projected energy savings had been properly calculated then standards for certain products would have met one or more of the significance tests. Such a claim was never made, however, with respect to clothes dryers or kitchen ranges and ovens, and, as reflected below in the products-specific analyses, whatever methodological questions may exist with respect to the ORNL Model's projection of savings, they would not impact clothes dryers or kitchen ranges and ovens sufficiently to affect a determination of the significance of energy savings attributable to standards for these products.

energy might meet the oil or gas or electricity savings tests, but for certain products that use relatively little energy, those tests might be impossible to meet. Accordingly, DOE proposed its third test which would be neutral as to the amount of energy used by the product, by measuring the savings as a percent of the use by that product. While there were other problems with the third test that could have inappropriately precluded a product from meeting that test, they have been addressed, *see* below. Consequently, DOE concludes that the three tests, as reformulated, are appropriate, even if a particular product might not be able to meet one or more tests.

In the same vein, some commenters suggested that the oil or gas and electricity savings tests of significance were unlawful because the amount of energy required to be saved in order to be deemed significant was greater than the amount of energy that a product was required to consume in order to be considered as a possible candidate for standards under Section 325(a)(2)(B) of the Act. These commenters suggested that DOE use as its significance test what had been proposed in the June 1980 proposal—a savings equal to 20 percent of the minimum energy required to be consumed in order to be considered a possible candidate for standards.

DOE has considered these comments but has concluded that the record does not support adoption of the test of significance proposed in June 1980.[11] At that time, DOE proposed that savings attributable to a standard for a product would have to exceed .002867 Quads per year. This level was explained as being based upon application of the 20 percent efficiency improvement, specified in the former Section 325(a)(1)(B) of EPCA as the minimum improvement, to the minimum energy use provision in the current Section 325(a)(2)(B). In the proposal it was not made clear, however, that the "energy use" provision by definition measured the amount of energy consumed in the home, whereas the ORNL Model measured electricity savings as the *source* energy savings, that is, the powerplants' input savings, rather that the *site* (or electricity consumers') savings. Thus, under the June 1980 proposal, electricity savings as measured by the ORNL Model would have to exceed .01 Quads per year to be deemed significant. Many of the commenters criticizing the April 2 proposal and supporting the June 1980 proposal were not aware of this source/site savings problem.

The June 1980 proposal was criticized in that proceeding by a number of commenters on the grounds that it simply was too small an amount of energy to be deemed significant. Moreover, several commenters noted that the amount was less than an amount Congress had found insignificant in rejecting a conservation contingency plan. In the April 2 proposal DOE concurred with these comments, stating that the level proposed in June 1980 was too small to be measurable in national reports and was less than 20 percent of the energy savings that Congress had rejected as insignificant in considering a conservation contingency plan.

Some commenters, however, took issue with these conclusions. For example, the NRDC stated that whether or not the savings were measurable in national reports was irrelevant, because the Act was designed to significantly improve the efficiency of appliances, not to save significant amounts of the energy used in the United States. (NRDC, May 20, 1982, at 2). DOE cannot agree with this comment. The Act, DOE believes, was designed to improve the efficiency of appliances only if such improvement would save significant amounts of energy. The prohibition in Section 325(b)(2) against adopting any standard that does "not result in a significant conservation of energy" is explicit. DOE believes, as most commenters agreed who addressed this issue, that generally a savings that would be too small even to discern in normal DOE reporting systems should not be deemed significant. The amount proposed in June 1980 would constitute less than one half of one tenth of one percent of the current low level of oil imports and less than one hundredth of one percent of current oil usage; it would constitute less than one-fifth of one percent of current energy input to electricity, and less than one-half of one percent of current energy input to just residential electricity. In some cases this amount of savings is so small as to be less than is involved in rounding the numbers as they are reported. In most cases this amount is less than the level of reporting error involved in the reporting system.

The NRDC and some other commenters took issue as will with DOE's reliance as a basis for rejecting the June 1980 test on the Congressional rejection of a conservation contingency plan, on grounds of insufficient savings, that provided for five times the savings as the June 1980 proposed significance test.[12] The NRDC noted that the Congressional rejection was made by a different Congress than passed the Act, did not involve home appliances, and involved different forms of restriction on businesses and individuals. DOE has always acknowledged that Congress neither defined nor gave clear indication as to the meaning of "significant" energy conservation. The April 2 proposal, in rejecting the June 1980 proposed definition which even the NRDC termed "lenient," looked in part to a different Congressional action for an indication as to what might constitute "significant" savings. DOE did not intend to suggest that this Congressional action was indistinguishable from the present situation, but rather that it provided a general sense of what might be considered insignificant. The commenters, such as the NRDC, that merely catalogued the differences between the circumstances present in the Congressional rejection of the conservation plan for lack of significant savings and the present rulemaking failed to demonstrate why those differences are sufficient to lead DOE to ignore that Congressional action in trying to determine what should constitute a significant savings under the Act. For example, some commenters said it was improper to compare savings from an emergency conservation plan designed for use in a shortage to savings from a long-term overall increase in the efficiency of appliances. DOE disagrees that it is improper to make such a comparison but recognizes that the comparison must be viewed with caution. Because this was the only legislative action cited to us that quantified a measure of insignificance, DOE believes it is entitled to some weight. Moreover, the notion, suggested by some commenters, that the circumstances involving an emergency measure would naturally require greater savings to be deemed significant than would be involved in a long-term conservation measure is not persuasive. It could equally be hypothesized that in an emergency savings would be deemed significant even if smaller than what

[11] DOE does not believe that because the oil or gas and the electricity savings tests would require greater savings of energy by the eight products subject to this rule than is required to be used by some other products in order to be possibly considered for standards means that these tests are unlawful or precluded by the statute. As indicated above, the oil or gas and electricity savings tests were designed with a bias to products that use large amounts of energy. The eight products subject to the present rulemaking are the largest energy using appliance and, thus, these tests are appropriate for them.

[12] For a full description of that Congressional action, *see* the April 2 proposal, at 14429.

would be required to be deemed significant in normal supply times.

Both interpretations may be plausible, but no evidence has been adduced to demonstrate that one rather than the other is determinative. Consequently, DOE has given no weight to either and has merely taken the Congressional action to be suggestive that 4400 bpd is insignificant. Accordingly, DOE has concluded that the record does not support adoption of the significance test proposed in the June 1980 proposal which would have found as significant energy savings of less than 1500 bpd.

Finally, a few commenters, such as the New York State Energy Office, suggested that, in measuring the energy savings attributable to a standard for the purpose of determining their significance, it was improper to measure only those incremental savings over what would occur in an unregulated environment. Their position was that Congress, in rejecting voluntary targets for mandatory standards, had rejected the concept of allowing an unregulated market to achieve requisite energy efficiencies for products, so that any increased efficiencies achieved by the unregulated market should be disregarded. DOE cannot agree with this comment. Section 325(b)'s injunction against a standard is that *the standard would not result* in a significant conservation of energy. Certainly the best, if not the only, way to measure whether the conservation of energy is the result of the standard or is the result of some other factor is to consider what would occur in the absence of standards. If DOE ignored the effect of market-induced efficiencies, the savings identified in the standards case could not be said to be the result of standards. Moreover, DOE disagrees with these commenters' assessment that Congress by enacting the current Section 325 intended to reject the notion that efficiencies that would be obtained by an unregulated market should be ignored. Indeed, DOE believes that current Section 325(b) was included to ensure that DOE did *not* ignore the effects of an unregulated market, by ensuring that DOE assessed whether a mandatory standard was worth the candle in terms of the amount of energy conservation achieved *as a result* of the standard.

Finally, some commenters suggested that DOE was ignoring the "significant" savings reported by two States—California and New York—as being the result of State standards for efficiency of certain appliances. DOE has not ignored these reported savings. DOE notes, however, that the representative of Pacific Gas and Electric indicated that the California savings were almost entirely a result of the building standards and not the appliance standards, and that New York's estimated savings for all of its standards (.018 Quads over five years for all State standards, or less than .004 Quads per year) would constitute less than $\frac{1}{10}$ of one percent of even the State's electricity usage. More importantly, DOE indicated in the April 2 proposal that because of climate differences or different energy concerns (especially with respect to electricity where problems are local and regional in nature) a mandatory efficiency standard in a State might well have greater relative positive impacts or savings than if the standard were adopted on a national basis. Thus, even if mandatory standards in California and New York have resulted in savings significant to those States, this is not evidence that a mandatory standard for a product would have significant savings nationwide.

1. *Oil or Gas Savings.* As was described in the April 2 proposal, DOE believes that it is apropriate to focus on savings of oil or gas because it is these fuels that Congress was most concerned about conserving when it enacted NECPA, amending EPCA to create the existing appliance efficiency standard program. The findings enumerated in NECPA are instructive:

> (a) Findings.—The Congress finds that—
> (1) The United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;
> (2) Unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs; and
> (3) All sectors of our Nation's economy must begin immediately to significantly reduce the demand for nonrenewable energy resources such as oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources.

Accordingly, DOE concluded that a saving of oil or gas would be deemed significant if it made a significant contribution to reducing this Nation's energy dependence on foreign nations. No commenter specifically took objection to such a test. DOE then stated that it tentatively proposed 10,000 bpd of oil or the natural gas equivalent of 10,000 bpd of oil as the lowest level of savings that would still have a significant contribution to reducing this Nation's energy dependence on foreign nations, but DOE requested comments as to whether the figure should be different.

Some commenters, such as the Air Conditioning and Refrigeration Institute (ARI), suggested that 10,000 bpd was too low a level of savings to be deemed significant because even this level was less than one tenth of one percent of national oil use and less than $\frac{3}{10}$ of 1 percent of petroleum imports. Other commenters asserted that the 10,000 bpd level was too high.

The ARI did not suggest a specific higher figure or indicate what basis DOE should use in reassessing the proposed 10,000 bpd figure. Some of the commenters who believed 10,000 bpd was too high, however, suggested particular lower levels. One suggestion was 4400 bpd—the specific level of savings projected for the conservation contingency plan that had been rejected by Congress in 1979 as insignificant. As DOE noted in the April 2 proposal, however, 4400 bpd was rejected as insignificant, and nothing in the history of that action suggests that this figure should constitute the breakpoint between significance and insignificance. The New York State Energy Office suggested 1165 bpd, the oil equivalent of 16.67 percent of the minimum energy use a product must use before it can be considered for standards under Section 325(a)(2)(B).[13] This amount is, of course, even less than the test proposed by DOE in June 1980, the rejection of which was described above. Accordingly, DOE does not believe this is an appropriate figure. The Northern States Power Company suggested 1000 bpd as the level because "[t]his amount is typical of many oil wells, each of which are accounted for nationally." In fact, DOE does not account for each oil well, nor, if it did, would the lack of production from one be noticeable or recognizable in national figures. Moreover, none of these commenters indicated how his proposed level would relate to a meaningful contribution to reducing this Nation's energy dependence on foreign nations. It is difficult to understand how a saving too small even to be discernible or measurable on national reports could be said to make a significant contribution to reducing our national energy dependence on foreign nations.

As a further basis for the 10,000 bpd test, in the April 2 proposal DOE indicated that 10,000 bpd was a rough

[13] 16.67 percent is the reduction in energy use resulting from a 20 percent increase in the energy efficiency of the product. This is discussed more fully below.

approximation of the per-product oil savings to result from the adoption of standards, as estimated at the time by the Administration that proposed the NECPA amendment to the appliance efficiency program. Also the April 2 proposal indicated that a 10,000 bpd oil savings for each of the products specified in the Act would be in the same range of savings as other major conservation programs proposed by the Administration that proposed mandatory appliance standards. No commenter took issue with either of these points.

Accordingly, after considering the various comments on the 10,000 bpd test, DOE believes the record supports adoption of the test. While ARI is right that 10,000 bpd is itself a very small amount of oil or gas, DOE believes that in light of Congress' special concern for oil and gas in the findings of NECPA, such a level still is appropriate.

Some commenters distinguished between the derivation of the 10,000 bpd test and its application. For example, the Environmental Policy Center (EPC) stated that its problem with the 10,000 bpd test was "with its application (as opposed to derivation) by DOE." [14] (May 19, 1982, at 11). The NRDC asserted that DOE defined the oil and gas problem away by allegedly using "NEP III forecasts which show oil and gas use by utilities will be inconsequential by 1990." (May 20, 1982, at 6). In fact, however, DOE did not use the National Energy Policy Plan III forecasts of oil and gas use by utilities. Rather, it used the most recent Energy Information Administration (EIA) Annual Report to Congress, which had only been recently issued. As indicated above, DOE is committed to using the most recent and reliable data in this rulemaking. Moreover, the forecasts made by EIA (whether of energy usage or price) are made totally independent of and without relation to this rulemaking. Thus, the oil and gas problem was not "defined away." Rather, to the extent that the projections are accurate, and no commenter suggested they were not or offered recommended substitutes, it is simply a fact that future electricity savings will save smaller and smaller amounts of oil and gas as those fuels are used less to generate electricity.

[14] EPC's problem with DOE's application of the 10,000 bpd test was EPC's belief that DOE only measured *site* energy savings, "thereby ignoring the vast inefficiency of electric generation, and, therefore oil and gas consumed in power production." *Id.* In fact, the ORNL Model, and the energy savings figures in the April 2 proposal, did not measure site savings of electricity, but rather savings of energy inputs to produce the electricity, for the very reasons enunciated by EPC.

One commenter asked for clarification as to whether the 10,000 bpd test required a savings of either 10,000 bpd of oil or the equivalent of 10,000 bpd of gas, or only a total savings of oil and gas that would equal 10,000 bpd of oil. In the April 2 proposal, the test required that the savings attributable to a standard must save either 10,000 bpd of oil or an equivalent amount of gas, not just a total savings of oil and gas equalling 10,000 bpd. In other words, if a standard would result in a savings of 10,000 bpd of oil *or* if it would result in a savings of gas equal to 10,000 bpd of oil (approximately 538 mcf/day), the savings would be deemed significant. If, on the other hand, neither 10,000 bpd of oil nor its equivalent in gas were saved, the savings would not be deemed significant even if taken together they were the equivalent of 10,000 bpd of oil.

The commenter suggested that, because oil and gas were often substitutes, the 10,000 bpd should refer to the sum of oil and gas savings. DOE has considered this comment but has concluded that such a change is inappropriate. First, oil and gas are not direct substitutes in the appliances subject to this rulemaking. For example, one furnace can use oil; another can use gas; no furnace can use both. Moreover, even in the generation of electricity, the substitutability of gas for oil or vice versa is often more theoretical than real except in the long term. Consequently, DOE believes it would not be proper to assume the perfect substitutability that adoption of this comment would necessarily imply.

Second, 10,000 bpd of oil is itself such a small amount, barely discernible in national reports, and the equivalent of 10,000 bpd of gas is also such a small amount (less than one tenth of one percent of the gas used), that effectively to lower these separate tests by allowing the sum of oil and gas savings to be measured against the 10,000 bpd level would lower the test and the amount below the level of significance. Moreover, as indicated in the April 2 proposal, the original savings estimate by the Administration which proposed the NECPA amendment was approximately 10,000 bpd of oil per standard plus approximately the same for gas. *See* 49 FR 14429 n.15.

Finally, neither 10,000 bpd of oil nor its equivalent of gas are large amounts of fuel to be saved compared to the amounts of these fuels consumed by the eight products subject to this rulemaking. For example, .021 Quads (the BTUs in 10,000 bpd of oil in a year) was in 1980 less than one percent of the oil used in central space heating and less than one percent of the gas used in central space heating. *See* 47 FR 14430. Thus, these figures are entirely reasonable for measuring separately oil and gas savings.

2. *Electricity Savings.* In the April 2 proposal DOE proposed that, notwithstanding NECPA's focus on oil and gas savings, some level of electricity savings should also be deemed significant because of the positive social benefits from saving electricity, separate from the consequent saving of any oil and gas used to generate the electricity. In the April 2 proposal DOE indicated that such social benefits might include reducing environmental problems.

With respect to environmental benefits from electricity savings, DOE noted that the Environmental Analysis that accompanied the June 1980 proposal determined that even if all the standards proposed at that time were adopted, the positive effect on the environment would not be significant. In the June 1980 proceeding that conclusion was not challenged. Inasmuch as the Environmental Analysis considered the total potential energy savings that would be attributable to imposition of standards for all products at the highest standard level considered, the finding that the positive impacts on the environment would not be significant in the June 1980 proposal was viewed in the April 2 proposal as clearly indicating that electricity savings attributable to any one standard would not be significant in terms of their positive impact on the environment. No commenter on the April 2 proposal took issue with this conclusion.[15] Consequently, DOE has determined that electricity savings attributable to a standard would not be significant in terms of their environmental impact.

The April 2 proposal, however, suggested that an additional social benefit associated with electricity savings would be the reduction in need for new incremental generating capacity. Therefore, DOE proposed that a savings of electricity would be deemed significant if the savings significantly reduced the need for such new, incremental generating capacity. Most commenters, including those who criticized the proposed test, supported this concept. DOE proposed to quantify this concept by requiring a standard to result in a savings of electricity over the nineteen-year period 1987–2005 equal to

[15] The NRDC in its comments on the April 2 proposal raised questions concerning the adequacy of the Environmental Analysis' consideration of possible *negative* impacts if no standards were adopted, which would preempt State standards. *See infra.*

one percent of the total electricity used during that period. DOE explained this required level of savings by saying that "[b]ecause the relative need for new capacity differs substantially among different regions of the Nation, DOE believes a national savings would at least have to exceed one percent of national usage over the period of analysis in order to have an effect on the need for new generating capacity, which at the utility level is distinguishable from other factors." 47 FR 14430. Several commenters disagreed that a one percent electricity savings was the appropriate test for determining the significance of electricity savings.[16]

Several commenters felt that this level of savings was simply too high because it was an amount in excess of (a) the minimum amount of energy specified in Section 325(b) that other products would have to use to qualify for consideration of standards, (b) the amount of energy proposed in the June 1980 proposal to be deemed significant, or (c) the amount that it is even theoretically possible for some products to save. All of these arguments have been addressed earlier.

Some commenters noted that the one percent savings of electricity (approximately 7 Quads over the period 1987–2005) was more than the 10,000 bpd savings proposed for gas or oil savings (approximately .4 Quads over the period 1987–2005). DOE recognizes this difference, but the fact that the electricity savings would have to be larger than oil or gas savings in order to be deemed significant is intentional and, DOE believes, supported by the high priority NECPA gives to savings of oil and gas. Moreover, it is important to remember that each test is intended to quantify a different concept—the one saving enough oil or gas to reduce this Nation's dependence on foreign sources of energy, and the other saving enough electricity to reduce significantly the need for new, incremental generating capacity—thus, it is not surprising that the quantifications are different, and that fact does not by itself suggest that one percent electricity savings is too high a level.

Several commenters complained that in quantifying a test for electricity savings, DOE had not quantified the amount of new additional capacity that such a savings would make unnecessary. None of these commenters suggested what amount of additional new capacity should have to be avoided in order to be deemed significant. Rather, several commenters attempted to translate the aggregate electricity savings for all products using electricity, if standards were adopted for all those products, into additional new capacity that could be avoided. These estimates ranged from 16.8 GWe (ACEEE, June 16, 1982, at 11) to 17.6 GWe (Northern States Power, June 15, 1982, at 1) in the year 2005.[17] Each of these commenters also reflected these estimated avoided capacities in terms of powerplant equivalents, which ranged from 17 1000 MW plants to 22 800 MW plants. These capacities avoided were all felt to be "significant" by the commenters.

First, even assuming that these amounts were significant savings under Section 325(b)(2), they would not support a finding that a standard for any one product would result in significant savings, for these amounts reflect aggregate savings from standards on all products using electricity. Under even ACEEE's methodology the largest reduction in need for new, incremental capacity attributable to one standard (electric water heaters) would be only 36 percent of the aggregate figure presented. Under DOE's base case projection, the largest reduction would be only 17 percent of the aggregate figure presented, or approximately 3 GWe or three 1000 MW powerplant equivalents nationwide. As discussed earlier, Section 325(b) requires DOE to make a determination of significant savings on an individual product type basis, not on the basis of the aggregate savings if standards were imposed on all products.

Second, it is not at all clear that even a 17 to 18 GWe theoretical reduction of additional new capacity is significant in terms of actually affecting potential new, incremental capacity. The 17 to 18 GWe capacity savings projected by the commenters would be less than 2 percent of the approximate forecast capacity for the year 2005, and these savings would for the most part be spread over large parts, if not all, of the Nation.[18] The result of this is that in some utility service areas, the level at which decisions are made as to the need for new, incremental capacity, these marginal savings could be so small compared to other factors, e.g., demographic changes, that they would have no impact on actual construction decisions. Thus, one cannot reliably assume that whatever number of gigawatts one may mathematically back out as a result of reduced kilowatt hours attributable to a standard represents the actual gigawatts of capacity construction foregone.

For the above reasons, DOE is unable to accept these commenters' position that the standards analyzed in the April 2 proposal saved a significant amount of electricity.

The final major comment made by commenters with respect to the electricity savings test related to consideration of peak load demand. These commenters criticized the one percent savings test saying it failed to take adequate account of savings' effect on peak load. Unfortunately, as DOE noted in the April 2 proposal, the nature of a utility's peak load and the impacts of projected increases are highly regional, if not local, matters. Many utilities are winter peaking as a result of electric space heating, whereas others are summer peaking because of air conditioning. Moreover, the nature of peaking capacity differs greatly, and in many circumstances peak load problems can be alleviated through load management techniques. No commenter provided or suggested a methodology for relating the ORNL Model's savings projections to peak load problems. Moreover, at the present time DOE has been unable to develop such a methodology.

The no-standard rule being issued today does not include air conditioning equipment, the products invariably cited to DOE as those for which analysis of peak load is most important. DOE is continuing to study whether some manner of addressing the peak load problem for air conditioning equipment

[16] A number of these commenters apparently misunderstood the test. Despite the April 2 proposal's clear indication that the total electricity savings over nineteen years would have to exceed one percent of the total electricity usage over the same period, the Environmental Policy Center (EPC) was of the view that savings were only considered as an "annual sum averaged across the entire period." May 19, 1982, at 10. Several commenters, such as the NRDC and the Department of Veteran and Community Affairs of the State of Florida, appeared to believe the requirement was a one percent savings *each* year, because they suggested that a one percent savings was a major portion of DOE's projected two-to-three percent annual increased electrical demand. In fact, whereas the total savings over the nineteen-year period 1987–2005 had only to be one percent of total use over that period, electricity demand is forecast to increase over 33 percent in the ten-year period of 1985–1995 (1981 Annual Report to Congress, DOE/EIA–0173(81)/3 at 152) and over 50 percent in the fifteen-year period 1985–2000 (NEPP III, DOE/S–0008 at 21).

[17] The EPC also made an estimate. Its figure of 40.2 GWe by the year 2000 is, DOE believes, founded on a methodological error. The ACEEE states that its figure is based on the ORNL Model's projection of the historical trends base case compared with the standards case, rather than on DOE's base case projection, which would reduce ACEEE's 1.10 Quads of electricity savings in the year 2005 to 0.32 Quads. The Northern States Power Company did not specify its methodology.

[18] In the ACEEE analysis, less than 20 percent of the electricity savings are attributable to central or room air conditioning, which savings might be more regional than national.

is feasible towards the end of perhaps adopting an additional test of significance in the final rule for air conditioning equipment.[19]

3. *The Twenty Percent Savings Test.* The April 2 proposal indicated that the oil or gas savings and electricity savings tests of significance related savings to their impact at the national level, and that this was both the most natural and the most appropriate meaning of significance in trying to assess whether the energy savings attributable to a national efficiency standard for a product was significant. Nonetheless, DOE recognized that the two tests were biased toward large energy users and that another concept of significance was at least plausible. This concept was to measure the significance of the energy savings attributable to a standard for a product in relation to the energy use by that product. Such a test is neutral as to whether the product uses a large or small amount of energy. Most commenters seemed to concur in this approach, even though they criticized the actual test proposed.

DOE proposed that in order for savings attributable to a standard to be deemed significant they would have to equal 20 percent of the energy used over the period 1987–2005 in the absence of a standard. DOE explained the 20 percent figure as being a percentage level that would provide meaningful savings even if the product used a relatively small amount of fuel. DOE also stated that it found support for this figure from the former requirement of Section 325 requiring voluntary energy efficiency targets for ten products (including the eight in the April 2 proposal) that would, if followed, result in an aggregate increase in energy efficiency of 20 percent in those products.

Several commenters took issue with this test as formulated, and in certain respects DOE has found the comments well taken. First, several commenters noted that the 20 percent requirement in the former Section 325 referred to a 20 percent improvement in efficiency in the products, whereas the April 2 proposal related to a 20 percent decrease in energy use as a result of an increase in products' efficiencies. Several of these commenters pointed out that mathematically a 20 percent increase in a product's efficiency results in a 16.67 percent decrease in fuel use, not a 20 percent decrease. Thus, some commenters suggested that we substitute a 20 percent increase in efficiency test for the 20 percent energy savings test; others suggested we substitute 16.67 percent for 20 percent in measuring the level of energy savings. We have adopted the latter approach rather than the former, because Section 325(b)'s injunction is phrased in terms of whether a standard will result in a significant conservation of energy rather than a significant increase in the efficiency of appliances.

Second, several commenters noted that under the April 2 proposal some products would not meet the test even if a standard required every new product sold to use no energy at all. This anomalous result occurred because so much of the energy being measured in the standards case would be energy consumed by products purchased before the standards were put in effect. Accordingly, DOE has changed the time period over which the savings would be measured for this test. In the April 2 proposal the period was the nineteen-year period 1987–2005; instead of this period, DOE is adopting the one-year period following the year of the retirement of the average product purchased immediately preceding the application of a standard. For example, for kitchen ranges and ovens the average lifetime is 18 years, and the standards case assumes standards are put into effect in 1987, so the energy savings in the year 2005 would be used to determine if there was a 16.67 percent decrease in kitchen ranges and ovens' energy use in the standards case from the base case. This change effectively limits the measurement of energy use in the standards case to energy use only by products that were purchased when standards were deemed in effect.

With these changes, DOE believes it has met the major objections which commenters had with the 20 percent test in the April 2 proposal. Nonetheless, even with the above changes, not all objections have been met. Several commenters were of the view that the April 2 proposal's 20 percent test was not at all comparable to the 20 percent increase in efficiency referred to in former Section 325, and, therefore, the April 2 test had no basis at all. Some of these commenters stressed the differences in how and what the 20 percent measured in former Section 325 and the April 2 proposal.[19a] Moreover, several commenters complained that the former Section 325's 20 percent increase in efficiency was measured as the difference between the relative efficiencies of products in the two years 1972 and 1980, whereas the April 2 proposed 20 percent test was the difference in energy use between a base case and a standards case over the nineteen-year period 1987–2005.[19b] These commenters stated that because there have already been some substantial improvements in efficiency between 1972 and 1978, this reduces the potential for further increasing efficiencies by significant percentages, and, accordingly, 20 percent is too high a figure.

DOE acknowledges, as it did with respect to the April 2 proposal, that the current test of a product's energy use if a standard were adopted compared to the product's energy use if no standard were adopted is not exactly the same nor is it applied in exactly the same circumstances as the minimum voluntary energy targets that were required under former Section 325. Nevertheless, these differences are not of a sufficient degree or of a kind or nature to conclude that DOE's 16.67 percent test is out of proportion to the target in former Section 325. Rather, in attempting to define a reasonable test of what should constitute a significant conservation of energy for all products, and especially for those products using relatively less energy, DOE noted that Congress had required a voluntary target of at least a 20 percent increase in the efficiency of all the products between 1972 and 1980. Only if a voluntary target were not met, would a mandatory standard be considered. Recognizing the differences between that regulatory scheme and the test adopted by DOE, DOE believes that the earlier target suggests the reasonableness of the measure adopted now by DOE. Moreover, even if the commenters were correct that DOE could not rely on the former Section 325 target in adopting its 16.67 percent test, DOE believes the record still supports the reasonableness of a significance test based on a 16.67 percent decrease in energy use by the product at issue.

4. *Conclusion.* On the basis of the foregoing, DOE is adopting three tests to determine whether the savings attributable to a standard would result

[19] The addition of a new test for significance does not create an additional hurdle for a standard, because if the savings attributable to a standard meet *any* test, DOE deems the standard to save significant energy. Thus, each additional test in fact increases the chances of a standard being deemed to have significant energy savings.

[19a] For example, it was noted that former Section 325's 20 percent increase in efficiency referred to an aggregate average increase in efficiency of all products, implicitly recognizing that some products might have increases of less than 20 percent, whereas the April 2 proposal's 20 percent test was (and the reformulated 16.67 percent test is) a minimum for each product.

[19b] The adopted 16.67 percent test would measure decreased energy use between a base case and a standards case in one year (the first year in which virtually all products in use would have been subject to standards in the standards case).

in a significant conservation of energy under Section 325 (b) (1). The first test would deem significant the savings attributable to a standard if the standard would result in the saving of 10,000 bpd of oil or the saving of natural gas equivalent to 10,000 bpd of oil over the period of the average life of the product in question beginning with the year 1987. The second test would deem significant the savings attributable to a standard if the standard would result in the saving of one percent of national electricity use over the period of the average life of the product in question beginning with the year 1987. The third test would deem savings significant if the savings attributable to a standard for a product were equal to 16.67 percent of the energy that would be used by that product in the absence of a standard measured over the one year period following the period of the average life of the product purchased in the last year before the standard would bee imposed.

II. (d) Economic Justification

As discussed in the April 2 proposal, Section 325(b) also prohibits an appliance efficiency standard if that standard is not economically justified. Thus, even if a standard saves significant amounts of energy, no standard could be issued unless it was determined to be economically justified. Section 325(d) states that a standard can be economically justified only if DOE determines that the benefits of standard exceed its burdens. In determining whether the benefits of a particular standard exceed the burdens, DOE must weigh six specific factors as well as any other factors that DOE deems to be appropriate. *See* Section 325(d) (1)–(7).[20] All of these factors were addressed in the April 2 proposal. Comments have been received which criticized DOE's views concerning some of these factors. However, no specific comments were received which addressed any of the factors in relationship to the two products involved in today's rulemaking.

Because no specific comments on the economic justification involving clothes dryers and ranges and ovens were received and because some of the economic justification factors rely heavily on the ORNL model,[21] DOE is not discussing all of the non-specific comments made with respect to its economic justification. Where significant adverse comment was received with respect to a general factor discussed in the General Discussion of the April 2 proposal and DOE is not responding to it in this rule, DOE is not giving any weight to that general factor in this rule.

III. Clothes Dryers

a. Technical Issues

In the technical area, comments regarding clothes dryers addressed the design options considered in DOE's analysis, the classes proposed, and DOE's test procedures for clothes dryers.

DOE evaluated three design options for improving the efficiency of clothes dryers in the analysis which led to the April 2 proposal. The three were: insulation, automatic termination by moisture sensing, and automatic termination by temperature sensing.

Several commenters stated that the insulation design option should not have been considered. Two of the commenters, Webster City Products (Webster City) and Whirlpool Corporation (Whirlpool), suggested that the extended payback period of this design option should disqualify it from consideration. Webster City remarked that its laboratory test investigation showed a 15 to 20 year payback period for this design option while Whirlpool used cost figures from DOE's Engineering Analysis to compute a 22.3 year payback period.

DOE agrees that the payback for this design option is not attractive, but this fact, given the purpose for which the design options in the Engineering Analysis are used, does not compel its elimination. The design options are used to assess the relationship between increases in the efficiency of a product and increases in the cost of that product. This relationship is then used in other analyses to project the effects that would be attributable to standards set at different levels. Design options with a range of payback periods may be useful in the derivation of the relationship between increases in efficiency and increases in cost. Of course, a standard that would require use of such a design option may not be economically justified.

General Electric Company (GE) commented that DOE's estimate of a 1.5 percent energy savings for insulating clothes dryers was overstated. GE claimed that this level of energy savings could only be achieved under the condition of comparing the energy consumption of an insulated clothes dryer with that of an uninsulated unit operated for multiple consecutive cycles drying certain types of clothes loads. DOE's estimate of 1.5 percent savings was taken from NBS test data and from an analysis of previous industry comments relative to improvements that could be gained from insulation. In its comment, GE did not provide the basis for its conclusion or identify where DOE might have erred. Accordingly, DOE was unable to conclude that GE's comment was justified.

The remaining comment made pertaining to the insulation design option was an expression of concern on the part of the Association of home Appliance Manufacturers (AHAM) that insulation in clothers dryers could degrade with time with the resultant potential for loose particles of insulation being drawn into the clothes load or exhausted into the home environment. The type of insulation which DOE considered in its analysis of this design option was vinyl-clad fiberglass, one inch in thickness, which is commonly used in air ducts where high velocity hot air is encountered. DOE is not aware of any problems associated with this application of this material. Therefore, DOE does not project any problems or risks associated with using this type of insulating material on the inside of clothes dryer cabinets.

Other comments pertaining to clothes dryer design options concerned automatic termination controls. Whirlpool questioned DOE's estimate of the energy savings associated with the application of moisture sensing automatic termination controls on 120 volt compact dryers. Since such controls have not been applied in production to 120 volt compact dryers, the commenter pointed out that DOE's energy savings estimate cannot be verified with field use results. It is true that no field use data are available for this application of this design option. However, field use data are available for 240 volt standard clothes dryers equipped with moisture sensing automatic termination devices and it is DOE's position that, in the absence of data to the contrary, it is reasonable to apply the field usage factor determined from these data to 120 volt compact clothes dryers equipped with the same design option. Consequently, DOE has not made changes to the Engineering Analysis in this regard.

[20] The NRDC pointed out in its comments that Section 325(d) by its terms only refers to Section 325(c), not to Section 325(b), and therefore suggested that DOE need not and should not determine economic justification on the basis of the weighing of the specified factors. Whether or not Section 325(d) *requires* its test to apply to determinations of economic justification under Section 325(b), or only those determinations made under Section 325(c), DOE believes the test in Section 325(d) test is appropriate for determining economic justification under Section 325(b).

[21] For example, until the issues involving the ORNL Model are satisfactorily resolved the economic impact on manufacturers as measured by the Financial Impacts Model cannot be determined.

This same commenter further remarked that, in DOE's analysis, temperature sensing automatic termination controls apparently were not assigned the full energy savings that DOE accorded moisture sensing automatic termination controls. The commenter is correct. For this analysis, DOE used the field use factors for temperature sensing and moisture sensing automatic termination controls found in the prosposed amendments to the test procedures for clothes dryers published on July 10, 1980 (45 FR 46762). These proposed factors were 1.04 for moisture sensing automatic termination and 1.10 for temperature sensing automatic termination. The rational for this, as stated in DOE's Engineering Analysis, was that temperature sensors rely on a rise in the temperature of the exiting air to terminate a cycle. Since such a temperature rise occurs after the moisture in the load has been removed, DOE reasoned that a temperature sensing control would terminate a cycle later than a moisture sensing control, all other things being equal. Based on this rational, DOE assigned a lesser value for energy savings to temperature sensing controls.

At the time, these proposed field use factors represented DOE's best estimate of the actual energy savings associated with the two types of automatic termination controls. Industry comments and data submitted in response to the proposed test procedure amendment established that temperature sensing controls are the equal of moisture sensing controls in actual field energy savings. As a result, DOE assigned the same field use factor for temperature sensing automatic termination controls as for moisture sensing automatic termination controls, 1.04 for both, in the final rule amending the test procedures for clothes dryers published on May 19, 1981 (45 FR 27324). Were DOE to update its engineering analysis for clothes dryers to account for this change to the test procedure, the result would be a reduction in the energy savings associated with a standard for clothes dryers, further substantiating a "no standard" finding for this product type.

Two comments pertaining to the proposed classes for clothes dryers were received. GE recommended that clothes dryers that are timed-only controlled be made a separate class. According to the Act, DOE can establish a product class for each subgrouping of a product type that uses a different type of energy or that has a performance feature which affects utility and energy consumption. While timed-only dryers generally tend to be less energy efficient than clothes dryers incorporating other types of automatic termination devices, it is not clear why consumers would perceive that these dryers offer any added utility. Since the timed-only feature does not affect product utility, DOE has determined that a separate product class for timed-only dryers should not be established.

Whirlpool recommended that gas fueled compact clothes dryers be made a separate class and, further, that any standard pertaining to compact clothes dryers be a function of drum volume. DOE's test procedures for clothes dryers define compact dryers as those with drum volumes of less than 4.4 cubic feet. According to the CS–179 data, only one model of a gas fueled compact dryer was made in 1972, two models were made in 1978, and no models are projected for 1985. Included with the CS–179 data was information which showed that the average drum volume for all types of clothes dryers was 5.9 cubic feet in 1969, 6.12 cubic feet in 1976, and 6.34 cubic feet in 1980. DOE did not propose a separate product class for gas fueled compact clothes dryers because it appeared that gas dryers of less than 4.4 cubic feet drum volume will not be manufactured in 1987, the year that any standard prescribed in this rulemaking would have become effective. Further, in reviewing the CS–179 data, DOE also found no significant correlation between the energy factor and drum volume for compact dryers. Therefore, DOE has decided against specifying a volume adjustment for compact clothes dryers.

The remaining technical issue raised in regard to clothes dryers concerned the variability of test procedure results. DOE published amended test procedures for clothes dryers on May 19, 1981 (46 FR 27324). GE commented that this amended test procedure had resolved several of its concerns. However, GE, Whirlpool, Webster City, and AHAM remarked that test result variability continues to be a problem. Specific test procedure modifications intended for reduction of test result variability were provided. DOE has taken steps to address this concern. Tests run at the National Bureau of Standards have not exhibited variability of test results of the order experienced by industry members. DOE will continue its attempts to resolve this issue; however, any steps taken along these lines are not expected to have any impact on the results of any of the analyses discussed herein.

b. Significance of Energy Savings.

The table below reflects the projected energy savings attributable to a standard for clothes dryers at each of the standards levels analyzed under the ORNL Model as well as the results of the sensitivity analyses performed on standard level 4.

CLOTHES DRYERS

	Levels						
	1	2	3	4 (ORNL)[1]	4 (historic)[2]	4 (constant)[3]	4 (double)[4]
Direct fuel savings 1987–2006 in quads:							
E	0	0	.035	.208	.329	.208	.350
G	0	0	0	.024	.001	.024	.002
Percent decrease in energy use in the year 2006 attributable to a standard:							
E	0	0	1	3	3	3	6
G	0	0	0	7	0	7	0

[1] Levels 1 through 4 (ORNL) reflect the projections of the ORNL Model as described in the April 2 EAD with the changes described above.
[2] This reflects a base case where the market activity is projected linearly based on past efficiency improvements on clothes dryers between 1972 and 1980, rather than on ORNL Model projections of increased efficiencies.
[3] This reflects a base case in which the efficiency of clothes dryers does not change from 1987–2006.
[4] This reflects an initial implicit discount rate for clothes dryers that is increased 100 percent over what is otherwise in the ORNL Model and then that rate is held constant, i.e., the disputed formula is eliminated.

The greatest savings of natural gas under the ORNL Model or any of the sensitivity analyses is the equivalent of 873 bpd of oil,[22] less than the 10,000 bpd that DOE would deem significant.

With respect to electricity savings, none of the projections rises even to the level of $\frac{1}{10}$ of the one percent of electricity usage over the period that DOE would deem significant.[23]

Finally, the largest percentage decreases in energy use attributable to a standard for clothes dryers reflected in any of the analyses is only seven percent of gas use in six percent of

[22] Under both the level 4 ORNL projection and the sensitivity analysis holding clothes dryer efficiency constant in the base case beginning in the year 1987, the Model projects direct natural gas savings of .024 Quads and indirect savings of .013 Quads over the period 1987–2006, based upon natural gas composing 6.15 percent of the energy used to generate electricity over this period, *see* 47 FR 14436 n. 26. This is the equivalent of 873 bpd of oil.

[23] Electricity usage over the period 1987–2005 is projected to be about 700 Quads, 47 FR 14436 n. 28.

electricity use by that product in the base case, less than the 16.67 percent that DOE would deem significant.

On the basis of the above, DOE concludes that a standard for clothes dryers would not result in a significant conservation of energy.

c. Economic Justification.

1. *Economic impact on manufacturers and consumers.* DOE has reviewed its initial determinations concerning the per unit increased cost to manufacturers to meet the highest level of efficiency as well as the increased prices to consumers at all standards levels. No comments were received that have persuaded DOE to alter these conclusions.

As discussed in the April 2 proposal, DOE did not analyze the impacts on manufacturers of dryers by use of the Financial Impacts Model. However, DOE indicated that it believed that an effect of a standard generally would be to require certain investments to be made that might not have otherwise been made. These required investments would probably result in the foregoing of certain other investments which would be more beneficial to the manufacturer. No specific comments were received disputing this determination, but comments were received from a number of manufacturers that they concurred in this general assessment.

2. *Life-cycle cost and net present value.* No specific comments were received concerning DOE's determinations on the life-cycle cost and net present value of clothes dryers. As indicated in the April 2 proposal, the life cycle cost of clothes dryers at both levels 3 and 4 (the only two levels that save any energy) actually increases for the two classes of dryers that made up 93 percent of the market in 1978. Thus, as set forth in the April 2 proposal, any energy saved would be as a result of penalizing the average consumer by requiring that consumer to purchase a dryer with a higher life-cycle cost than is now available.

The net present value (NPV) analysis is executed by use of the ORNL Model. Accordingly, for reasons discussed earlier, DOE subjected the NPV analysis to the same three sensitivity analyses as the energy savings analysis. At no standard level and under none of the sensitivity analyses was there a positive NPV for gas clothes dryers. The largest NPV for electric clothes dryers was $197 million from energy savings over the period 1987–2024.[24] This comes to only about five cents a year per household.

[24] The NPV's for electric clothes dryers at a level 4 standard ranged from $69 million under the ORNL Model and the sensitivity analysis holding the base case efficiency constant beginning in 1987, to $148 million under the sensitivity analysis using historic efficiency improvements projected into the future, to $197 million under the sensitivity analysis that doubled the implicit discount rate and then held it constant. The NPV is based upon energy savings over the period 1987–2024 resulting from standards over the period 1987–2006.

3. *Energy saving.* As indicated previously the maximum savings attributable to standards for clothes dryers under any of the analyses would be 0.374 quads.

4. *Lessening of utility or performance of products.* As indicated in the April 2 proposal, the classes established by DOE were intended to assure that the standards analyzed would not lessen the existing utility or performance of clothes dryers. As discussed in the April 2 proposal, however, the future utility or performance of clothes dryers involving investments in energy using new features could be lessened as a result of standards. No comments were received that disputed this determination.

5. *Impact of lessening competition.* The Attorney General has determined that the absence of a Federal standard for clothes dryers would have no impact on competition.

6. *Need to save energy.* As shown above, standards for clothes dryers would save very little gas or electricity. In the April 2 proposal, DOE stated that in balancing the benefits of a standard against its burdens, no weight need be given to savings of energy that are so small. No comments were received disputing this determination.

7. *Other factors.* Because the FIM was not used to assess the impacts of standards on dryer manufacturers, DOE did not estimate the impact of the standard for dryers on small manufacturers of dryers. No comments were received from any small manufacturers concerning the impact of standards on dryers.

It should be noted that while comments were received suggesting that standards should be adopted for a number of specified appliances, no commenter suggested that a standard should be adopted for clothes dryers.

Conclusion

DOE has determined that in light of all the factors discussed above and in the April 2 proposal, the burdens of an efficiency standard for clothes dryers outweigh the benefits. Accordingly, no efficiency standard for clothes dryers is economically justified.

IV. Kitchen Ranges and Ovens

a. Technical Issues

In the technical area, comments regarding kitchen ranges and ovens addressed the design options considered in DOE's analysis.

The NRDC and the ACEEE asserted that had a certain prototype electric oven been included in DOE's engineering analysis, then the resulting potential energy savings associated with standards for electric ranges and ovens would have been significant. They relied upon data contained in a report on work performed at DOE's Oak Ridge National Laboratory. The oven in question is termed a "bi-radiant" design. It utilizes highly reflective cavity surfaces and highly absorptive cookware to minimize radiant energy losses. As acknowledged by one of these commenters, this oven design is available in prototype form only and no production cost estimates have been made. The commenter contends, however, that the physical description of the prototype design implies that the cost would be low.

DOE has considered this comment but has concluded that prototype versions of products that are not available in the marketplace and for which production cost estimates are not available should not generally be included as design options in the Engineering Analysis. Moreover, DOE has reviewed the work of the Oak Ridge National Laboratory in developing this advanced oven design and determined that the general considerations that militate against inclusion of prototypes as design options are equally applicable to this particular oven. Specifically, because it is a prototypical model, it has not been demonstrated that it lends itself to efficient mass production, has general market potential, or even whether such a level of efficiency could be obtained from a mass-production model. Moreover, even if it were feasible, it could require a separate product class (as is true of microwave ovens) because of unique utility features. Finally, the inability to determine production costs with reliability precludes its use in the Engineering Analysis.

Another comment concerned the reduced vent size design option for standard ovens. This design option involved reducing the vent size in standard ovens to the size in self-cleaning ovens. Whirlpool remarked that this design option could cause moisture condensation on cooler range surfaces and lead to underbaked food products. This manufacturer further commented that the vent on current models of self-cleaning ovens is really

throttled down more than is desirable from a performance standpoint but is necessary for the catalyst in the vent to prevent excess smoke generation.

DOE has test results which confirm the energy savings potential of reduced oven vent sizing. These results were obtained by testing currently available oven designs. Further, DOE believes the clear market acceptance of self-cleaning ovens indicates that their cooking characteristics are acceptable. Consequently, DOE has not revised its estimate or the viability or energy savings attributable to this design option.

b. Significance of Energy Savings

The table below reflects the projected energy savings attributable to a standard for kitchen ranges and ovens at each of the standards levels analyzed under the ORNL Model as well as the results of the sensitivity analyses performed on standard level 4.

RANGES AND OVENS

	Levels						
	1	2	3	4(ORNL)[1]	4(historic)[2]	4(constant)[3]	4(double)[4]
Direct fuel savings 1987–2005 in quads:							
E	.014	.032	−.306	−.390	−.103	−.390	.006
G	.001	.003	.267	.316	.055	.315	.304
Percent decrease in energy use in the year 2005 attributable to a standard[5]	0	0	0	0	−1	0	4

[1] Levels 1 through 4(ORNL) reflect the projections of the ORNL Model as described in the April 2 EAD with the changes described above.
[2] This reflects a base case where the market activity is projected linearly based on past efficiency improvements in kithen ranges and ovens between 1972 and 1980, rather than on ORNL Model projections of increased efficiencies.
[3] This reflects a base case in which the efficiency of kitchen ranges and ovens does not change from 1987–2005.
[4] This reflects an initial implicit discount rate for kitchen ranges and ovens that is increased 100 percent over what is otherwise in the ORNL Model and then that rate is held constant, i.e., the disputed formula is eliminated.
[5] Because almost all the energy savings of gas (and all the increased use of electricity) between the base and standards cases are attributable to fuel switching rather than efficiency increases, *see infra*, it would not be appropriate to reflect percentages for gas and electricity separately with respect to kitchen ranges and ovens. Aggregating the savings for gas and electricity provides the proper measure of the decreased energy use attributable to increases in efficiency of kitchen ranges and ovens resulting from standards.

The greatest savings of natural gas under the ORNL Model or any of the sensitivity analyses is the equivalent of 7566 bpd of oil,[25] less than the 10,000 bpd that DOE would deem significant. Moreover, this gas savings is at the direct expense of increased electricity usage. That is, under all the analyses the savings of gas is almost entirely the result of the standard influencing the market to purchase electric rather than gas kitchen ranges and ovens. This is due to the negative net present value and increased life cycle costs involved in standards for gas ranges and ovens. Thus, the savings of gas attributable to standards are for the most part the result of fewer gas ranges and ovens being purchased, not the increased efficiency of those products under standards. Similarly, the negative savings of electricity under most of the analyses is the result of increased purchases of electric kitchen ranges and ovens, not any decrease in their efficiency compared to the base case.

With respect to electricity savings, none of the projections rises even to the level of 1/10 of the 1 percent of electricity usage over the period that DOE would deem significant.[26]

Finally, the largest percentage decrease in energy use attributable to a standard for the product kitchen ranges and ovens reflected in any of the analyses is only 4 percent of the base case energy use by that product, less than the 16.67 percent that DOE would deem significant.

On the basis of the above, DOE concludes that a standard for kitchen ranges and ovens would not result in a significant conservation of energy.

c. Economic Justification

1. *Economic impact on manufacturers and consumers.* DOE has reviewed its initial determinations concerning the per unit increased cost to manufacturers to meet the highest level of efficiency as well as the increased prices to consumers at all standards levels. No comments were received that have persuaded DOE to alter these conclusions.

As discussed in the April 2 proposal, DOE did not analyze the impacts on manufacturers of kitchen ranges and ovens by use of the Financial Impacts Model. However, DOE indicated that it believed that an effect of a standard generally would be to require certain investments to be made that might not have otherwise been made. These required investments would probably result in the forgoing of certain other investments which would be more beneficial to the manufacturer. No specific comments were received disputing this determination, but comments were received from a number of manufacturers that they concurred in this general assessment.

2. *Life-cycle cost and net present value.* No specific comments were received concerning DOE's determinations on the life-cycle cost and net present value for ranges and ovens. As indicated in the April 2 proposal and as continues to be true, at every level of efficiency analyzed as a potential standard for electric ovens, the standard would be set higher than the average consumer's LCC minimum. Therefore, a standard at this level would penalize the average and below average consumers by banning their optimal oven from the market. While there is a slightly positive NPV projected at levels 1 and 2 ($16 million and $38 million, respectively, over the 38 year period), there is a negative NPV at standard levels 3 and 4 under the ORNL Model and under two of the three sensitivity analyses. Under the sensitivity analysis of standard level 4 where the initial implicit discount rate is increased 100 percent and then held constant, the Model shows a $473 million NPV. Inasmuch as three of the analyses reflected a negative NPV at level 4, DOE does not believe the occurrence of a positive NPV in one sensitivity analysis is a sufficient basis to conclude that a level 4 standard would have a positive NPV. Even were this one analysis deemed to project the actual NPV, this figure represents a benefit of less that 13 cents per year per household. Consequently, DOE does not believe that this NPV is entitled to great weight in measuring the benefits and burdens of possible standards, especially when this benefit is directly at the expense of banning from the market the minimal LCC oven for average consumers.

At the two levels of efficiency that would save the most gas (levels 3 and 4), the standards for gas ovens would be set higher than the average consumer's LCC minimum. Therefore, a standard at these levels would penalize the average and below average consumers by banning their optimal oven from the market. For some classes of oven, the life cycle cost is increased by standards from the 1978 average. The net present value attributable to a standard for gas ranges and ovens is either zero or negative at each standard level and under each sensitivity analysis. This

[25] Under the sensitivity analysis that doubles the initial implicit discount rate and then holds it constant, the Model projects direct natural gas savings of .304 Quads and indirect savings of less than .001 Quads, based upon natural gas composing 6.15 percent of the energy used to generate electricity over this period. *see* 47 FR 14436 n. 26. This is the equivalent of 7566 bpd of oil.

[26] Electricity usage over the period 1987–2005 is projected to be about 700 Quads. 47 FR 14436 n. 28.

demonstrates that consumers as a whole would suffer economically from imposition of a standard.

3. *Energy savings.* The energy savings are indicated as discussed in the Significance of Energy Savings section above.

4. *Lessening of utility or performance of products.* As indicated in the April 2 proposal, the classes established by DOE were intended to insure that the standards analyzed would not lessen the existing utility or performance of ranges and ovens. However, as we stated in the April 2 proposal, standards could discourage investments that would improve future utility or performance of ranges and ovens with some additional energy use. No specific comments were received disputing this determination.

5. *Impact of lessening competition.* The Attorney General has determined that the absence of a Federal standard for ranges and ovens would have no impact on competition.

6. *Need to save energy.* As shown above, a standard for kitchen ranges and ovens would save at most .398 Quads over nineteen years, less than 2 percent of the energy used over that period by that product.[27]

In the April 2 proposal DOE concluded that, in balancing the benefits of a standard against its burden, no weight need be given to savings of such a small amount. No commenter disputed this conclusion. Moreover, as discussed above, virtually all the savings of gas are directly attributable to persons not purchasing gas kitchen ranges and ovens as a result of a Federal standard making the appliance less economical. The need to save oil and gas is not so great to justify standards that have the effect of influencing persons merely to switch from gas or oil products to electrical products in order to save that oil or gas.

7. *Other factors.* DOE received no comments from manufacturers discussing the impact of possible standards for ranges and ovens on small manufacturers.

Two appliance manufacturers (Amana and Carrier), however, and the Northern States Power Company, all three of which supported standards for some products, notably made an exception with respect to standards for kitchen ranges and ovens.

Conclusion

DOE has determined that in light of all the factors discussed above and in the April 2 proposal, the burdens of an efficiency standard for kitchen ranges and ovens outweigh the benefits. Accordingly, no efficiency standard for kitchen ranges and ovens is economically justified.

v. Preemption of State Regulations

Section 327(a)(2) of EPCA, as amended, provides that any Federal standard applicable under section 325 supersedes any non-identical State or local standard. Section 325(b) explicitly requires that a "no-standard" standard likewise supersede any State or local standard. Section 327(b)(3), however, provides that a State may petition for and DOE shall adopt a rule exempting a State or local standard from being superseded, if DOE finds that there is a significant State or local interest to justify the State or local standard and the standard is more stringent than the Federal standard.[28] Nevertheless, DOE is prohibited from adopting such a rule if the State or local standard would unduly burden interstate commerce.

In the NOPR, DOE proposed to establish the effective dates upon which supersession of State and local standards would take place and the general procedures by which States could petition for rules exempting their State or local standards for all covered products.

Major comments were received in the following areas:

(1) the effect of a Federal "no-standard" determination on the appropriateness of State and local standards; (2) the criteria by which DOE would determine whether or not to issue a rule exempting a State or local standard from preemption; (3) questions as to the date upon which State or local laws would be superseded by the Federal standard; (4) which State or local regulations would be an "energy efficiency standard or other requirement with respect to energy efficiency or energy use of a covered product" within the meaning of the statute; and (5) questions on the procedural rules governing State submission of petitions for a rule to exempt a State standard from supersession.

The final rule adopted today establishes the procedures that will apply in all cases in which States petition the DOE for rules exempting individual State or local standards. It should be emphasized that the regulation applies not only to the two covered products subject to this rulemaking but will also apply to all other covered products when final standards are promulgated for them.

1. The Effect of a "No-Standard" Determination on Related State Regulations

Many commenters appeared to believe that DOE had the preemption of State law as one of its aims in proposing a "no-standard" standard. To the contrary, DOE recognized in the NOPR that many energy problems are local in nature. Indeed, this fact is one of the reasons discussed above why a single, national standard either imposes too great a cost on large numbers of persons or fails to save significant energy over the entire nation. Thus, analyses that DOE believes demonstrate the inappropriateness of Federal standards under the statutory tests do not necessarily indicate their inappropriateness on a State or local basis. Moreover, this Administration's policy of New Federalism supports the freedom of the States to take regulatory actions they deem appropriate to State or local interests, so long as these actions do not unduly burden interstate commerce, and such freedom is inconsistent with automatic preemption by a Federal no-standard determination. Accordingly, the Administration supported one bill in Congress that would have legislatively eliminated any Federal standard and any automatic Federal preemption and did not oppose a bill that simply would have eliminated automatic Federal preemption if a no-standard rule for a product were adopted.

So long as current provisions of the Act remain in effect, however, the Department will faithfully execute the law and, if petitioned, determine the appropriateness of State and local standards in each particular case of their desired continuation or implementation. As is discussed further below, the DOE believes that many, if not all, existing State and local standards might well prevail in rulemakings for exemption from Federal preemption.

2. The Criteria for Exemptions From Preemption

The NOPR did not specify the criteria upon which DOE would assess petitions from States that their standards not be superseded by the Federal "no-standard" standard, other than stating

[27] Between 1987 and 2005, 20.11 Quads are projected to be used by kitchen ranges and ovens. *See* EAD, Table 3–15.

[28] Similarly, DOE had previously adopted a rule pursuant to § 327(b)(1) of EPCA which permits DOE to prescribe a rule upon a petition by a party subject to a State or local standard that would preempt in whole or in part a State regulation if DOE finds no significant State or local interest sufficient to justify such a regulation and that the State regulation unduly burdens interstate commerce. *See* Section 430.47. The NOPR proposed only minor changes to those regulations, and no significant comments were received on those proposed changes.

that in reaching a determination DOE would balance the State's interest in its standard with the standard's burden on interstate commerce. Both States and manufacturers sought further specificity in the criteria.

Manufacturers generally suggested that DOE apply the same criteria in assessing State petitions as DOE applied in making its determination on Federal standards. This would require that significant energy would be saved by the State standard and that the State standard be economically justified according to the terms of section 325(d). DOE has not adopted this suggestion.

Section 327(b)(3) requires DOE to grant an exemption to a State if the State standard is more stringent than the Federal standard and there is a significant State or local interest to justify the regulation, unless DOE finds the State standard unduly burdens interstate commerce. The fact that Congress created different tests, using different words, for a rule exempting a State standard than for a rule adopting a Federal standard (including a "no-standard" standard) strongly indicates that the tests were to be different. Both the State interest and burden on interstate commerce tests have been applied by courts in assessing the constitutionality of State legislation affecting interstate commerce without the necessity of involved cost-benefit tests.

Even if DOE had the discretion to adopt such cost-benefit tests in assessing State standards, however, DOE would not. The standards at issue are State standards. Federal concern under the Act involves assuring that there is a significant State interest to justify the standard and that the standard does not unduly burden interstate commerce.

Moreover, there is no inconsistency in DOE rejecting the views, opinions, conclusions, methodologies, or judgments of a State in its comments on the proposed Federal "no-standard" standard and yet deferring to that State in the context of a petition for a rule to exempt a State standard from supersession. In the former case, in promulgating a rule applicable to the entire nation, DOE must reach its own independent judgment concerning the accuracy or wisdom of the various comments and must independently assess and weigh the evidence in the record. In the latter case, however, the purpose of the rulemaking (which is not required to be based on substantial evidence) to exempt the State standard from preemption is not to scrutinize every step in the State's decisionmaking procedure to determine if DOE agrees with all of the State's judgments and decisions. Such second-guessing of a State's decisionmaking is not necessary to protect the Federal interests involved.

After considering all of the comments on possible specification of criteria for exemptions, DOE has determined to adopt only the language of the statute. DOE believes that language is sufficiently specific to give guidance to petitioners and those opposing the petition. Further specification, DOE believes, would likely lead only to litigation and greater uncertainty.

Nevertheless, in order to enable interested parties to assess DOE's initial approach to these State petitions, DOE has reviewed the existing State standards that have been brought to its attention in the course of this rulemaking.[29] While DOE cannot make any conclusive determinations at this time with regard to these existing laws, they do not appear to have caused an undue burden on interstate commerce, as indeed most manufacturers admitted when questioned. Moreover, it appears to the DOE that significant State interest would be demonstrated by the type of explanations currently in the record concerning that particular problems that the States face and the results that they expect to achieve through their particular energy efficiency standards. Thus, with regard to the existing State and local laws that DOE has reviewed, DOE believes that, in general, these laws would qualify for an exemption from supersession.

3. The Time of Supersession

The NOPR proposed that State and local laws would be superseded 180 days after publication of the related Federal rule in the **Federal Register**, unless a State had petitioned within that time for a rule excepting its standard. In the case of a petition, the State or local standard would not be superseded until and unless DOE denied the requested rule but in no event sooner than 180 days after publication of the standard. In this way there could be no hiatus when a State or local standard was not in effect if the State obtained an exemption.[30] DOE's purpose in allowing States to maintain the *status quo* prior to a determination by the agency was to avoid the situation where DOE's delay in adopting a rule, for which a State was not responsible, would nevertheless redound to the detriment of the State and its established public policy.

This proposal was generally criticized by manufacturers and supported by States. Manufacturers, for the most part, were of the view that State and local standards should be superseded on the date that the corresponding Federal standard is published in the **Federal Register**. This view would result in a hiatus period during which neither a Federal nor a State standard would be in effect.

Manufacturers argued not only that the Act must be read to require the early preemption date, but also that the early date would serve important policy goals. They claimed undue burden on themselves were they to be regulated under State regulations all the way up to the time a corresponding Federal regulation came into effect. Manufacturers were also concerned that under the NOPR, if State laws were not to be superseded until the effective date of the Federal standard, a State could enact new standards in the 180 days before the Federal standard was effective and file its petition at the last minute to delay supersession of State law for the longest possible time.

The Department does not find the statutory construction and public policy arguments of manufacturers to be persuasive. Unlike manufacturers, DOE interprets the Act based on the language of Section 327(a)(2)(A) which provides:

> This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—
>
> * * * * *
>
> (2) any energy efficiency standards or other requirement with respect to energy efficiency or energy use of a covered product—
>
> (A) If there is a standard under section 325 *applicable* to such product, and such State regulation is not identical to such standard * * * [Italic added].

This statutory language refers to the Federal standard as being "applicable" to a product. DOE interprets the term "applicable" in this section as meaning "having legal effect," based on the intent of Congress to delay the effectiveness of any Federal standards determination until 180 days after publication of the Federal standards rule. *See* Section 325(i)(4) of the Act.

Moreover, an early preemption date would create a hiatus which in DOE's view would be unacceptable because it would balance the legitimate interests of States and manufacturers so poorly.

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[29] DOE also reviewed these existing State standards in its evaluation of the possible economic and environmental impacts of a finding of "no standard" for the eight appliances set forth in the NOPR nand the two appliances addressed in today's rulemaking.

[30] Similarly, even if the Federal standard established a particular efficiency level for a covered product, an energy efficiency standard, either State or Federal, would be in effect during the entire period.

States clearly have a legitimate interest in maintaining their regulations during the period in which a petition for exemption from preemption is pending before DOE. On the other hand, no comments by manufacturers demonstrated any public policy necessity for a hiatus. Manufacturers claimed this result would provide them with needed protection from having to comply with two regulatory programs at once.[31] However, even if DOE were to impose substantive Federal standards, there should be few if any instances of impossibility of compliance or other undue burden problems. First, there would of necessity be a substantially delayed effective date of the Federal rule. Second, Federal rules would take effect in conjuction with the requirement of section 325(i)(4) of the Act that no Federal standard shall apply to any products manufactured before the effective date of the standard. Thus, there would be little immediate impact on manufacturers. Moreover, the risk of any real burden appears to be virtually non-existent whenever Federal "no-standard" standards are concerned.

However, after reviewing all of the arguments presented by the commenting parties, DOE has determined to make certain changes to the proposed rule. Thus, in order to balance the concerns of commenting manufacturers who fear last-minute State petitions filed with DOE and the legitimate interests of the States, DOE is adopting in its final rule a requirement that in order for the effective date of the Federal standard to be delayed by the filing of a petition for exemption, a notice of petition must be filed by a State with DOE within 60 days of publication of the final Federal rule setting forth the standard (or no standard) for a particular covered product. The petition itself must be filed within 120 days of publication of the particular rule.[32]

Some manufacturers also suggested that the DOE prohibit State or local governments from adopting any new appliance efficiency standards during the 180 day period prior to the effective date of the rule. DOE cannot prohibit State or local governments from taking any lawful actions. However, as noted above, only States which file a notice of petition and a petition in accordance with § 430.34(b) and the provisions of Subpart D will be able to implement any new standards. Thus, any new standards for a particular covered product (or new levels of energy efficiency for States or local governments that had previously implemented standards), in order to be effective 180 days after publication of the Federal rule for that product, would have to be enacted within 60 days of publication of this rule and a notice of petition and the petition itself would have to be filed in a timely fashion. After this time period, States may of course submit petitions for exemption. However, the State or local energy efficiency standard could not be in effect, after the 180 day period, until DOE granted the State's petition.[33]

Some questions were also raised concerning DOE's ability to consider petitions prior to the effective date of the Federal standard. As DOE stated in the NOPR, the procedural rules governing these petitions in Part 430, Subpart D, will be effective 30 days after their publication in the **Federal Register.** Accordingly, the regulations governing the petitions for exemption will be in effect at the time the DOE reaches its determinations on them.

4. State Standards Affected by the Federal Rule

Many commenters indicated some uncertainty as to the State and local laws that would qualify as an "energy efficiency standard or other requirement with respect to energy efficiency or energy use" and consequently that would be subject to supersession. A number of specific examples of State laws and regulations were given in the comments. DOE does not believe it is appropriate to attempt to specify or define in the actual rule adopted today what State laws or regulations are subject to supersession. Nevertheless, in reviewing economic and environmental impacts of the proposed "no-standard" standards, DOE read "energy efficiency standard" to be as set forth in section 321(6) of the Act: "a performance standard * * * which prescribes a minimum level of energy efficiency for a covered product * * *." Standards could be set either by legislation or regulation. Standards subject to preemption would include standards for any particular type (or class) of covered products established by mandatory State or local building codes, including codes that incorporate consensus standards, such as those set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standards. More specific examples of DOE's understanding of the coverage of the statute are listed below.

(a) Voluntary utility rebate or incentive programs, authorized or required by State law or regulation, are not considered to be subject to preemption.

(b) Any State or local law or regulation relating to the purchase by a State or any political subdivision of appliances would not be subject to preemption. In other words, a State or any political subdivision (e.g., a public housing authority) may set any efficiency standard or energy use requirement it wishes with respect to appliances purchased by the State or any of its political subdivisions. *See* Section 327(c) of EPCA.

(c) Prohibition of hook-ups for appliances with less than a certain efficiency would be subject to preemption.

(d) "Point" index programs in construction or building codes that would not set specific requirements for a covered product, but would establish an overall maximum number of energy efficiency points for the building or all appliances, would not be subject to preemption.

(e) Prohibitions on standing pilot lights would be subject to preemption.[34]

(f) Prohibition against placing oversized furnaces and air conditioners in new buildings, would not be subject to preemption.

The DOE makes the following suggestion in order to resolve any uncertainty about whether any particular State or local law or regulation is subject to preemption. Beginning today, any State or person subject to a State or local law or regulation involving a covered product may write to the Department at the address given in the beginning of this notice and request an interpretation in this matter. The request for interpretation should be submitted to the DOE pursuant to 10 CFR Part 205, Subpart F. The DOE requests that interested persons identify all laws and

[31] The Department notes in passing that during any hiatus, of course, manufacturers would not be subject to *any* regulation of minimum appliance efficiencies.

[32] It should be noted that a State may only file a petition after DOE has reached a final determination concerning standards for a particular covered product. Thus, States may only file petitions at this time concerning their standards for clothes dryers and ranges and ovens, since a determination on standards for all other covered products has not yet been finalized by rule.

[33] Any changes in State or local building codes which impose energy efficiency standards on covered products are subject to Federal preemption, even if a lesser standard for the same covered product has been granted an exemption from preemption. Thus, States will have to submit petitions to DOE for such exemptions each time a new standard is formulated.

[34] It should be noted that the prohibition of a standing pilot light in ranges and ovens and clothes dryers by a State or local standard would be preempted by today's rulemaking. Such a prohibition in a furnace or water heater is not impacted by today's rulemaking.

regulations in question with respect to ranges and ovens and clothes dryers within 60 days of the publication of today's notice. The requestor should provide the exact text of the law or regulation in question and may include reasons why the requestor believes the law or regulation is or is not subject to preemption. The Department will give notice of all such correspondence in the Federal Register in order that all interested persons may be adequately informed.

5. Procedures Regarding Petitions

In the NOPR, DOE proposed to stay the effectiveness of the rule upon receipt of a petition for rulemaking by a State within 180 days. As discussed above, § 430.41(b)(2) requires a notice of petition to be submitted to the Secretary within 60 days of publication of a final standard for a covered product and a complete petition within 120 days after publication of such a final standard in order to delay the effective date of the final standard.

In the NOPR, DOE requested comments regarding how notice of a State's petition should be given to interested manufacturers. DOE proposed, in the alternative, requiring States to give individual notice to affected manufacturers or providing notice generally through the Federal Register (47 FR 14456 (proposed § 430.42(b)(2))). Based on the comments, DOE has concluded that the benefits of requiring individual notice to manufacturers is outweighed by the costs. DOE believes that individual manufacturers both directly and through their trade associations will be apprised of State petitions and the consequent DOE rulemakings, thereby enabling them to participate fully in the proceedings if they desire. DOE will therefore publish an announcement of the petition for rulemaking in the Federal Register promptly after receiving the full petition from a petitioner.

Because of the absence of individualized notice, however, DOE is extending the period for public comment on petitions (which is also clarified to be the rulemaking's public comment period) from 60 to 90 days. *See* § 430.43.

Proposed § 430.42(c) provided that, even if after a DOE request for further information, there remained insufficient information upon which to base a determination, DOE may deny a petition without prejudice. Some comments urged the Department to obligate itself to do its own investigation in these circumstances. Since it serves the interests of all parties to provide adequate information, however, the DOE believes that instances of insufficient information will be infrequent. While in any given case the DOE may, in its discretion, seek further information on its own initiative, it has determined not to bind itself to do so by rule.

A few manufacturers, while noting that States do not bear the ultimate burden on the interstate commerce issue, recommended nevertheless that the rules require State petitions to make a *prima facie* case on this issue. Proposed § 430.44(b)(5) contained no requirement for information in State petitions on this issue. Manufacturers also noted a possible inconsistency in the showing State petitions must make on the issue of significant State or local interest. Proposed § 430.44(b)(5) merely required a "description" of this issue, while the preamble stated that "a State must present information which would appear on its face to show . . . that there is a significant State or local interest in issuance of the State's regulation," 47 FR at 14456. The DOE has considered these comments and has determined to make no changes to the regulatory language. This stance is taken in part in full deference to the Congressional intent regarding the States' burden on the interstate commerce issue and in recognition that it is in the States' interest to provide the best possible information on both these issues, regardless of the exact wording of the regulations.

Some manufacturers asked the DOE to require affirmations from States that there had been public participation in the development of all State regulations for which State petitions are filed. The DOE declines to impose minimum due process requirements on the States and localities. Any statute or regulation duly enacted or promulgated under whatever procedures are applicable at the State or local level, as appropriate, may be the subject of a State petition.

Finally, manufacturers argued that their need for certainty justified some absolute deadline for taking final action on State petitions, after which time the relevant State regulation would be automatically preempted, but could later be reinstated if appropriate. Manufacturers making this comment generally suggested a six month deadline. The Department has reviewed and retained § 430.48(a) as proposed. Section 430.48(a) provides that DOE will attempt to take final action on a petition within six months after it is filed. If DOE cannot make a determination during this time period, the DOE will publish a notice in the Federal Register extending the period to a date certain and giving the reasons for the delay. Section 430.48(a) applies to petitions by manufacturers as well as by States and is based directly on provisions in the Act.

Except as noted above, DOE is adopting the procedural regulations at 10 CFR Part 430, Subpart D, as proposed in the NOPR.

VI. Environmental, Regulatory Impact and Small Entity Impact Reviews

a. Environmental Review

The Department has reviewed today's final rule in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), the Council on Environmental Quality Regulations implementing the procedural provisions of NEPA (40 CFR Part 1500 et seq.), and the Department's own NEPA guidelines (45 FR 20694, March 28, 1980, as amended by 47 FR 7976, February 23, 1982) and finds that neither an environmental impact statement nor an environmental assessment is required since there are clearly no significant environmental impacts associated with today's action.

In the April 2, 1982 notice proposing "no standard" standards for eight types of consumer products, DOE identified the preemption of State energy efficiency standards applicable to these products as the one element of this proposed action which could have foreseeable environmental impacts.[35] DOE considered the possibility that States with existing standards would not seek exemption from preemption as provided for under Section 327(b)(3) of the Act or would be denied an exemption from preemption. In either case, the State standard would no longer be effective, thereby permitting sales of prevously noncompliant products in the State. DOE reviewed this potential outcome and determined that any impacts associated with Federal preemption of existing State standards or regulations would not have significant environmental impacts.

However, one comment received in response to the April 2 notice contested DOE's general determination, stressing that the original Environmental Assessment (EA) did not specifically address the environmental consequences of eliminating State standards.

DOE has considered this comment in light of today's final rule prescribing "no

[35] State petitions for exemption of standards from preemption will be subjected to appropriate NEPA review on a case-by-case basis. Except with respect to preemption of existing State standards, the establishment of a "no standard" standard does not change the status quo.

standard" for clothes dryers and kitchen ranges and ovens. DOE is not aware of any State which has ever had an energy efficiency standard *per se* applicable to either of these products; however, nine States currently have regulations prohibiting standing pilot lights on natural gas-fueled versions of these products.[36] Today's final rule preempts such regulations as they apply to these two products. DOE performed a "worst case" analysis to assess the worst possible environmental impacts of this action. In the worst case situation, all States with standing pilot light bans applicable to clothers dryers and kitchen ranges and ovens would fail to petition for exemption from Federal preemption or would be denied an exemption, thereby permitting sales of previously noncompliant products.

In the case of clothes dryers, DOE has determined that the preemption of State regulations banning standing pilot lights should have virtually no environmental impacts since there are few, if any, gas clothes dryers being manufactured with standing pilot lights. DOE considers it highly unlikely that, in the absence of State bans, manufacturers would return to standing gas pilots on clothes dryers for the following reasons. First, manufacturers have already made the investment in tooling for intermittent ignition devices (IID's). Second, IID's increase the reliability of clothes dryers by eliminating service calls for re-lighting pilots. Finally, the increasing price of gas will increase market demand for IID's on gas clothes dryers. Therefore, there would clearly be no significant adverse environmental impacts associated with the preemption of State regulations banning standing gas pilot lights with respect to clothes dryers.

With regard to kitchen ranges and ovens, DOE's "worst case" analysis assumed that all future sales of gas-fired units, in those States which do not exempt gas ranges and ovens without electrical power cords from their ban on standing pilot lights, would be units equipped with standing pilot lights. Sales of units with standing pilot lights in those States with such exemptions were assumed to remain unchanged since consumers in those States have always been able to purchase gas ranges and ovens with standing pilot lights. According to DOE's analysis, this "worst case" would result in an annual increase in gas range energy consumption of approximately one half of one percent. This is about 0.0015 Quads of additional gas energy consumption in 1980. This is a clearly insignificant increase in gas energy consumption.

Thus, DOE has concluded that the "no standards" final rule for these two products clearly will not have a significant impact on the quality of the human environment. Therefore, DOE has determined that no EA or Environmental Impact Statement need be prepared for this rulemaking.

b. Executive Order 12291

Executive Order 12291 requires agencies to determine if a rule is a "major rule" under the Order. In the April 2 proposal, DOE determined that the rule proposed there would not be a major rule because, if adopted, it would not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This conclusion was not criticized in the rulemaking proceeding. The rule adopted today is a part of the rule proposed on April 2 and, accordingly, would likewise not be a major rule under the Executive Order. Consequently, this rule has been reviewed by OMB under the procedures applicable to rules other than major rules.

c. Regulatory Flexibility

In the April 2 proposal DOE certified, pursuant to Section 605(b) of the Regulatory Flexibility Act, that the proposal, if promulgated, would not have a significant economic impact on a substantial number of small entities. While the April 2 proposal received comment from small businesses involved in the manufacture of appliances, generally supportive of the proposal, the commenters did not take issue with DOE's certification. Accordingly, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, D.C., December 15, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. Section 430.2 is amended by adding or revising the following definitions:

§ 430.2 Definitions.

* * * * *

"Act" means the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619).

* * * * *

"Consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type:

(a) Which in operation consumes, or is designed to consume, energy; and

(b) Which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

* * * * *

"Covered product" means a consumer product of a type specified in section 322 of the Act.

* * * * *

"Energy efficiency standard" means a performance standard:

(a) Which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323 of the Act, and

(b) Which include any other requirements which the Secretary may prescribe under section 325(c) of the Act.

* * * * *

"Manufacturer" means any person who manufactures a consumer product.

* * * * *

"Person" includes any individual, corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company, the government, and any agency of the United States or any State or political subdivision thereof.

* * * * *

[36] The nine States are: Arizona, California, Hawaii, Iowa, Michigan, Minnesota, New York, Oregon, and Wisconsin. Four of these States, Arizona, Michigan, Minnesota and Wisconsin, exempt gas kitchen ranges and ovens without electrical power cords from the standing pilot light ban.

"State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

"State regulation" means a law or regulation of a State or political subdivision thereof.

* * * * *

2. Subpart C of Part 430 is revised to read as follows:

Subpart C—Energy Efficiency Standards

Sec.
430.31 Purpose and scope.
430.32 Final energy efficiency standards.
430.33 Preemption of state regulations.
430.34 Effective date.

Authority: Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 95–619; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267.

Subpart C—Energy Efficiency Standard

§ 430.31 Purpose and scope.

This subpart contains any energy efficiency standards for classes of covered products that are required to be promulgated by the Department of Energy pursuant to the energy conservation program for consumer products other than automobiles under the Energy Policy and Conservation Act, as amended (42 U.S.C. 6291 *et seq.*).

§ 430.32 Final energy efficiency standards.

The final energy efficiency standards for each class of covered products are:

(a) Refrigerators and refrigerator-freezers. [Reserved]

(b) Freezers. [Reserved]

(c) Dishwashers. [Reserved]

(d) Clothes dryers: No standard for all classes.

(e) Water heaters:

(1) For the classes gas, electric, electric table top, and oil. [Reserved]

(2) For the class heat pump water heater. [Reserved]

(f) Room air conditioners. [Reserved]

(g) Home heating equipment, not including furnaces. [Reserved]

(h) Television sets. [Reserved]

(i) Kitchen ranges and ovens: No standard for all classes.

(j) Clothes washers. [Reserved]

(k) Humidifiers and dehumidifiers. [Reserved]

(l) Central air conditioners:

(1) For the classes which include all split systems and single package units which do not operate with a heat pump. [Reserved]

(2) For the classes which operate with a heat pump. [Reserved]

(m) Furnaces. [Reserved]

§ 430.33 Preemption of State regulations.

Any State regulation providing for any energy efficiency standard, or other requirement with respect to the energy efficiency or energy use, of a covered product that is not identical to a Federal standard (including a determination of no standard) in effect under this subpart is preempted by that standard.

§ 430.34 Effective date.

The effective date of a final energy efficiency standard (including a determination of no standard) in § 430.32 shall be the later of:

(a) 180 days after publication of that standard in the **Federal Register**, or

(b) With respect to a covered product in a particular State for which that State has filed a notice of petition within 60 days of publication of that standard in the **Federal Register**, and a petition under § 327(b)(3) of the Act within 120 days of publication of that standard in the **Federal Register**, the date upon which the Secretary issues or denies a final rule concerning that petition.

3. Subpart D of Part 430 is revised to read as follows:

Subpart D—General Procedural Regulations

Sec.
430.41 Petition for prescription of a rule.
430.42 Filing requirements.
430.43 Announcement of petition for rulemaking.
430.44 Contents.
430.45 Consolidation of proceedings.
430.46 Hearings and comments of interested persons.
430.47 Evaluation of petition.
430.48 Disposition of petition.
430.49 Judicial review.

Authority: Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 95–619; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46467.

Subpart D—General Procedural Regulations

§ 430.41 Petition for prescription of a rule.

(a) Pursuant to section 327(b)(1) of the Act, any person subject to a State regulation may petition the Secretary for a rule to supersede in whole or in part that State regulation prescribing an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered products.

(b)(1) Pursuant to section 327(b)(3) of the Act, any State may petition the Secretary for a rule that a State regulation prescribing an energy efficiency standard or other requirement respecting energy use or energy efficiency for a type (or class) of covered products not be superseded.

(2) A State may submit a notice of petition to the Secretary within 60 days after publication of a final standard for a covered product and a complete petition within 120 days after publication of such a final standard for a covered product in order to implement the provisions of § 430.34(b) of this Part.

§ 430.42 Filing requirements.

(a) A notice of petition or a petition for a rule under this section shall be submitted in triplicate to: U.S. Department of Energy, "Section 327 Petition—Energy Efficiency Program for Consumer Products," 1000 Independence Avenue, S.W., Washington, D.C. 20585.

(b)(1) A petition for a rule to supersede a State or local regulation and all related submissions shall be served upon each State agency, department, or instrumentality whose regulation the petitioner seeks to supersede.

(2) All materials required to be served under this Part shall be served personally or by registered or certified mail. Service upon a person's duly authorized representative shall constitute service upon that person. Service by registered or certified mail is complete upon mailing.

(c) If the DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOE may deny the petition without prejudice. The Secretary shall publish notice of such a denial in the **Federal Register** and the reason for such a denial.

(d) If any person wishes to claim confidential treatment pursuant to 5 U.S.C. 552 or 16 U.S.C. 1905, for any information contained in the petition or other document submitted prior to the issuance of a final decision, that person shall submit together with the original document, a copy of the document in triplicate, from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and shall file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person filing a document does not

submit a copy of the document with the confidential information deleted, the DOE may assume that there is no objection to public disclosure of the document in its entirety. The DOE retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by the DOE to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

§ 430.43 Announcement of petition for rulemaking.

Promptly after receipt of a petition, an announcement of such a petition shall be published in the **Federal Register.** The announcement shall set forth the availability for public review of all data, and information available, and shall solicit comments, data and information with respect to the petition. Each announcement shall contain a summary of the State or local regulation at issue and either (a) the petitioner's reasons for a rule to supersede the State or local regulation, or (b) the petitioner's reasons for a rule not to supersede the regulation. Except as may otherwise be specified, the period for public comment shall be 90 days after the announcement appears in the **Federal Register.** This comment period shall be the same as any comment period specified by the Secretary pursuant to § 430.46(b).

§ 430.44 Contents.

(a) A petition to supersede a State regulation under section 327(b)(1) of the Act shall include:

(1) The name, address and telephone number of the petitioner;

(2) A statement of the interest of the petitioner for which a superseding rule is sought;

(3) A copy of the law or regulation for which supersession is sought;

(4) Specification of each type or class of product for which a superseding rule is sought;

(5) Information which would show why such regulation unduly burdens interstate commerce;

(6) Information which would show that there is no significant State or local interest sufficient to justify the State regulation in issue;

(7) Any other information that the petitioner considers relevant or that the Secretary may require.

(b) A petition from a State for a rule for exemption from supersession of a State regulation under section 327(b)(3) of the Act shall include:

(1) The name, address, and telephone number of the petitioner;

(2) A statement of the petitioner's authority to represent the governmental entity in this proceeding;

(3) A copy of the law or regulation which the State or local entity requests not be superseded;

(4) Specification of each type or class or product covered by the regulation;

(5) A description of the significant State or local interest justifying such State regulation;

(6) Any other information that the petitioner considers relevant or that the Secretary may require.

(c) A notice of petition submitted under § 430.41(b)(2) from a State shall include the information contained in § 430.44(b) (1), (2) and (3).

(d) All petitions and comments by interested persons shall be made available for public review, except for information determined to be confidential pursuant to § 430.42(d).

§ 430.45 Consolidation of proceedings.

DOE may consolidate any or all matters at issue in two or more proceedings docketed where there exist common questions of fact and law, and where such consolidation would expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

§ 430.46 Hearings and comments of interested persons.

(a) The Secretary shall hold a public hearing to afford interested persons a reasonable opportunity to present oral data, views, and arguments with respect to the proposed rule, and publish notice in the **Federal Register** of the date and location of the hearing. A transcript shall be kept of the hearing.

(b) The Secretary shall accept written comments from interested persons with respect to the proposed rule.

§ 430.47 Evaluation of petition.

(a) In evaluating a petition submitted pursuant to section 327(b)(1) of the Act, the Secretary shall issue a requested rule only if the Secretary determines:

(1) There is no significant State or local interest sufficient to justify such regulation; or

(2) Such State or local regulation unduly burdens interstate commerce.

(b) In evaluating a petition submitted pursuant to section 327(b)(3) of the Act, the Secretary shall issue the requested rule only if the Secretary determines:

(1) There is a significant State or local interest to justify such regulation; and

(2) Such State or local regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Secetary may not prescribe such rule if he finds that such State or local regulation would unduly burden interstate commerce.

§ 430.48 Disposition of petition.

(a) The Secretary shall prescribe a final rule or deny the petition within 6 months after the date the petition is filed, except that the Secretary may publish a notice in the **Federal Register** extending such period to a date certain. Such notice shall include the reasons for the delay.

(b) The final rule issued by the Secretary or a determination to deny the petition by the Secretary shall include a written statement setting forth the factual and legal basis for the decision. A copy of the Secretary's decision shall be sent to either (1) the petitioner and the affected State or local agency if the petition is for a rule to supersede a State regulation, or (2) the petitioner and all persons subject to the State regulation who have submitted comments if the petition is for a rule not to supersede a State regulation. The Secretary shall publish in the **Federal Register** a notice of the final rule or a notice of the denial of the petition and the factual and legal basis for the decision.

§ 430.49 Judicial review.

The decision issued by the Secretary concerning a petition filed under this subpart shall be a final determination of the DOE of which any adversely affected person may seek judicial review.

[FR Doc. 82-34541 Filed 12-16-82; 4:45 pm]

BILLING CODE 6450-01-M

federal register

Wednesday
December 22, 1982

Part III

Department of Agriculture

Agricultural Marketing Service

Pecans Grown in 16 States; Hearing on Proposed Marketing Agreement and Order No. 983

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. F&V AO-79-3]

Pecans Grown in 16 States; Hearing on Proposed Marketing Agreement and Order No. 983

AGENCY: Argicultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed marketing agreement and order.

SUMMARY: Notice is hereby given of a public hearing to consider a proposal to establish a marketing agreement and order for pecans. The proposed program would authorize marketing research and development projects, including promotion and paid advertising, designed to improve the marketing, distribution, and consumption of pecans. The proposal was submitted by the Federated Pecan Growers' Associations of the United States and has not received the approval of the Secretary of Agriculture. All interested persons will be given the opportunity to testify at the hearing.

DATES AND ADDRESSES: See Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Corps Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5697.

SUPPLEMENTARY INFORMATION: Hearing Dates and Locations: The hearing will begin on February 8, 1983, at the LeBaron Hotel, 1055 Regal Row, Dallas, Texas 75247 and will continue at that location through February 11. The hearing will then be reconvened February 14-16 at the L. D. Strong Auditorium, Lower Plaza Level, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303, and conclude February 17 and 18 at the Mobile Gas Service Corporation Company Auditorium, 2828 Dauphine Street, Mobile, Alabama 36606. All hearing sessions will begin at 9:00 a.m., local time.

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated handlers.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). The public hearing is for the purpose of:

(a) Receiving evidence about the economic and marketing conditions which relate to the proposed marketing agreement and order and to any appropriate modifications thereof,

(b) Determining whether the handling of pecans produced in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce,

(c) Determining whether there is a need for a marketing agreement and order for pecans, and

(d) determining whether the proposed marketing agreement and order or any appropriate modification of it will tend to effectuate the declared policy of the act.

The proposed program would be administered by a 14-member Pecan Marketing Board composed of 7 growers, 4 shellers, 2 grower-shellers, and 1 public member. Board members would be nominated by their respective industry groups and selected by the Secretary of Agriculture.

Funds to conduct the authorized projects and to maintain the Board would be obtained from assessments levied on handlers (shellers). All shellers who handle pecans in the continental United States would be assessed at a rate authorized by the Secretary of Agriculture for each marketing year. The rate would not exceed a ceiling of one cent per pound of inshell pecans handled, except that this ceiling could be adjusted based on changes in the Consumer Price Index for all items. The adjusted assessment could not exceed two cents per pound.

To become effective, the proposed program or any appropriate modification of it would have to be voted on and approved by growers producing pecans in the designated production area. The proposal designates a "production area" comprised of 16 states: Alabama, Arizona, Arkansas, California, Florida, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, Georgia, Kansas, Louisiana, South Carolina, Tennessee, and Texas.

List of Subjects in 7 CFR Part 983

Marketing agreement and order, Pecans.

Part 983 is proposed to be added to Title 7 as follows:

PART 983—PECANS GROWN IN 16 STATES

Definitions

Sec.
983.1 Secretary.
983.2 Act.
983.3 Person.
983.4 Production area.
983.5 District.
983.6 Grower.
983.7 Pecans.
983.8 Inshell pecans.
983.9 Shelled pecans.
983.10 Shell.
983.11 Sheller.
983.12 Grower-sheller.
983.13 To handle.
983.14 Handler.
983.15 Board.
983.16 Marketing year.
983.17 Part and subpart.

Pecan Marketing Board

983.18 Establishment and membership.
983.19 Redistricting.
983.20 Eligibility.
983.12 Term of office.
983.22 Nomination.
983.23 Selection.
983.24 Qualification by acceptance.
983.25 Alternate members.
983.26 Vacancies.
983.27 Expenses.
983.28 Procedures.
983.29 Powers.
983.30 Duties.

Research and Development

983.31 Marketing estimates and recommendations.
983.32 Marketing research and promotion.

Reports and Other Records

983.33 Confidential information.
983.34 Reports of acquisitions.
983.35 Other reports.
983.36 Records.
983.37 Verification of reports.

Expenses and Assessments

983.38 Expenses.
983.39 Assessments.

Miscellaneous Provisions

983.40 Rights of the Secretary.
983.41 Personal liability.
983.42 Separability.
983.43 Derogation.
983.44 Duration of immunities.
983.45 Agents.
983.46 Effective time and termination.
983.47 Amendment.
983.48 Effect of termination or amendment.
983.49 Counterparts.
983.50 Additional parties.
983.51 Order with marketing agreement.

Authority: Sec. 1-9, 48 Stat. 31, as amended, 7 U.S.C. 601-674.

Definitions

§ 983.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 983.2 Act.

"Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–49, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 983.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 983.4 Production area.

"Production area" means the following states: Alabama, Arizona, Arkansas, California, Florida, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, Georgia, Kansas, Louisiana, South Carolina, Tennessee, and Texas.

§ 983.5 District.

"District" means any one of the following geographic subdivisions of the production area:

District 1: Arizona, California, New Mexico, and West Texas (West of Highway 277 from Del Rio to Stamford and Highway 6 from Stamford to Quanah and Oklahoma line).

District 2: Kansas, Missouri, Oklahoma, and East Texas (East of Highway 277 from Del Rio to Stamford and Highway 6 from Stamford to Quanah and Oklahoma line).

District 3: Alabama, Arkansas, Louisiana, Mississippi, and Tennessee.

District 4: Florida, Georgia, North Carolina, and South Carolina.

§ 983.6 Grower.

"Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity in the commercial production of pecans.

§ 983.7 Pecans.

"Pecans" means the nut of the pecan tree *Carya illinoensis* grown in the production area.

§ 983.8 Inshell pecans.

"Inshell pecans" is synonymous with "unshelled pecans" and means pecans from which the shells have not been removed.

§ 983.9 Shelled pecans.

"Shelled pecans" means pecan kernels or portions of kernels after the shells have been removed.

§ 983.10 Shell.

"Shell" means to remove the shells from inshell pecans.

§ 983.11 Sheller.

"Sheller" means any person who shells pecans, or has pecans shelled for his account, in the continental United States, and who purchases more than 50 percent of the pecans he shells or has shelled for his account.

§ 983.12 Grower-sheller.

"Grower-sheller" means any person who shells pecans, or has pecans shelled for his account, in the continental United States, and who grows 50 percent or more of the pecans he shells or has shelled for his account.

§ 983.13 To handle.

"To handle" means receipt of inshell pecans by a sheller or grower-sheller, including pecans of their own production.

§ 983.14 Handler.

"Handler" means any sheller or grower-sheller who handles pecans in the continental United States.

§ 983.15 Board.

"Board" means the Pecan Marketing Board established pursuant to § 983.18.

§ 983.16 Marketing year.

"Marketing year" means the twelve months from September 1 to the following August 31, both inclusive, or such other period of time as may be recommended by the Board and established by the Secretary.

§ 983.17 Part and subpart.

"Part" means the order to promote pecans and all rules and supplementary orders issued thereunder. The order itself shall be a "subpart" of such part.

Pecan Marketing Board

§ 983.18 Establishment and membership.

A Pecan Marketing Board (hereinafter referred to as the "Board") is hereby established, consisting of fourteen members, each of whom shall have an alternate with the same qualifications as the member, to administer the terms and provisions of this part. Seven members and alternates shall be growers; four members and alternates shall be shellers; two members and alternates shall be grower-shellers; and one member and alternate shall represent the public.

(a) The grower representation on the Board shall be: One member from District 1, two members from District 2, two members from District 3, and two members from District 4,

(b) The sheller representation on the Board shall be: Two members from east of the Mississippi River and two members from west of the Mississippi River.

The grower-sheller representation on the Board shall be: One member from Districts 1 or 2 and one member from Districts 3 or 4.

(d) The public representation on the Board shall be: One member who is not a grower, sheller, or grower-sheller.

§ 983.9 Redistricting.

The Board may review every three years and recommend, and the Secretary may approve, the reapportionment of members among districts and the reestablishment of districts within the production area. In recommending any such changes, the Board shall give consideration to shifts in pecan acreage and production within the districts and within the production area during recent years. Any redistricting or reapportionment must be made six months prior to the date on which the terms of office begin.

§ 983–20 Eligibility.

Each grower member of the Board and alternate shall be, at the time of his selection and during the term of office, a producer in the district for which selected and shall cease to be a member or alternate when he ceases to be a producer in the district. Each sheller member of the Board and alternate shall be, at the time of his selection and during the term of office, a sheller or an officer or employee of a sheller in the region for which selected and shall cease to be a member or alternate when he ceases to be a sheller in the region. Each grower-sheller member of the Board and alternate shall be, at the time of his selection and during the term of office, and producer in the district from which selected and shall cease to be a member or alternate when he ceases to be a producer in the district from which he is selected or when he ceases to be a grower-sheller as defined in § 983.12. The public member shall not be affiliated in any way with the pecan industry.

§ 983.21 Term of office.

Members and alternate members of the Board shall serve for terms of three years ending on May 31: *Provided,* That the term of office of five of the initial members and alternates shall end on

May 31, 1984, and the term of office of five other such initial members and alternates shall end on May 31, 1985. Except as otherwise provided in § 983.20, each member and alternate member shall continue to serve until his successor is selected and has qualified. The consecutive terms of office of members and alternates shall be limited two terms.

§ 983.22 Nomination.

The Board shall hold or cause to be held and shall give reasonable publicity to nomination meetings of producers, shellers, and grower-shellers for such purposes. Only persons eligible to serve as members shall be eligible to vote at their respective nomination meetings and each person shall have one vote. The person receiving the largest number of votes cast for member or alternate position shall be the district nominee. These nominations shall be certified by the Board to the Secretary no later than May 1 preceding the commencement of the term of office. For the purpose of obtaining initial nominations, the Secretary shall perform or cause to be performed the functions of the Board. The public member an public alternate shall be nominated by the other Board members and certified to the Secretary.

§ 983.2 Selection.

The Secretary shall select members and alternate members of the Board in the numbers and with the qualifications specified in this part. Such selections shall be made from the nominations certified by the Board.

§ 983.24 Qualification by acceptance.

Each person selected by the Secretary as a member or as an alternate member shall, prior to serving, qualify by filing with the Secretary a written acceptance as soon as practicable after being notified of such selection.

§ 983.25 Alternate members.

An alternate for a member shall act in the place and stead of such member during his absence or, in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified. The Board may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 983.26 Vacancies.

Any vacancy occasioned by the removal, resignation, disqualification, or death of any member, or alternate, or any need to select a successor through failure of any person selected a a member or alternate to qualify, shall be recognized by the Board, causing a nomination to be made by the appropriate group and certifying to the Secretary a new nominee as soon as practicable.

§ 983.27 Expenses.

The members and their alternates of the Board shall serve without compensation but shall be allowed their necessary expenses as provided by the Board.

§ 983.28 Procedures.

(a) The members of the Board shall select a chairman from their membership and shall select such other officers and adopt such rules for the conduct of Board business as they deem advisable. The Board shall give the Secretary or designated agent the same notice of its meetings as is given to members of the Board.

(b) All decisions of the Board, except where otherwise specifically provided, shall be by majority vote of the members present. A quorum of at least nine voting positions shall be required for the conduct of Board business.

(c) The Board may vote by mail or telegram upon due notice to its members. When any proposition is to be voted on by either of these methods, at least twelve votes must be received by the Board and no dissenting votes may be received in order for the proposition to be adopted.

§ 983.29 Powers.

The Board shall have the following powers:

(a) To administer this part in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 983.30 Duties.

The duties of the Board shall be as follows:

(a) To act as intermediary between the Secretary and any handler or grower;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions and such minutes, books, and records shall at any time be subject to the examination of the Secretary;

(c) To notify growers and handlers of all Board meetings;

(d) To furnish to the Secretary a complete report of all meetings and such other available information as may be requested;

(e) To appoint such employees as it may deem necessary and to determine the compensation, define the duties, and fix the bonds of such employees;

(f) To appoint such subcommittees and consultants as it may deem necessary;

(g) To cause the books of the Board to be audited by one or more public accountants at least once for each marketing year and at such other times as the Board deems necessary or as the Secretary may request and to file with the Secretary reports of all audits made;

(h) To prepare periodic statements of the financial operations of the Board and to make copies of each such statement available to growers and handlers for examination at the Board's office;

(i) To assemble data and information on growing, shipping, and marketing conditions with respect to pecans;

(j) To develop programs and projects and to enter into contracts or agreements for the development and carrying out of marketing research and development projects, including marketing promotion and paid advertising. The payment of the costs thereof shall be with funds collected pursuant to this part; and

(k) To recommend to the Secretary appropriate rules and regulations as are necessary to effectuate the purposes of this part.

Research and Development

§ 983.31 Marketing estimates and recommendations

Each marketing year the Board shall hold a meeting or meetings for the purpose of recommending to the Secretary a marketing research and development policy, including marketing promotion and paid advertising, for such year. Such recommendations shall include the following:

(a) its estimate of the native and improved pecan production in the area of production for the marketing year;

(b) Its estimates of the handler carryover of inshell and shelled pecans;

(c) Its estimates of the trade demand for such marketing year for shelled and inshell pecans, taking into consideration trade carryover, imports, prices, competing nut supplies, and other facts; and

(d) Its recommendation for the establishment of a marketing research and development policy, including marketing promotion and paid advertising, which is designed to assist, improve, or promote the marketing, distribution, or consumption of pecans.

§ 983.32 Marketing research and promotion.

(a) *Projects and activities*—The Board, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects, including promotion and paid advertising. The expenses of such projects shall be paid from assessments obtained pursuant to § 983.39.

(b) *Board recommendations*—Each marketing year, the Board shall prepare and submit to the Secretary its recommendations with respect to marketing research and development projects, including marketing promotion and paid advertising. The Board's recommendations shall include the nature of the projects or activities to be undertaken, the time and duration of activities, advertising media to be used, if any, the estimated cost of the activities, and the objectives of such projects or activities.

(c) No activities other than marketing research and development including marketing promotion and paid advertising, and those necessary for the administration of this part shall be undertaken by the Board.

(d) *Review*—As soon as practicable after the end of each marketing year, the Board shall review the operation and results of its projects and submit a report thereon to the Secretary. In any contract between the Board and any agency involving marketing research and development, including marketing promotion and paid advertising, the Board shall reserve to itself and the Secretary the right to verify performance and invoices for services rendered by such agency.

(e) *Rules and regulations*—The Board, with the approval of the Secretary, shall establish such rules and regulations as are necessary to carry out the requirements of this part.

Reports and Other Records

§ 983.33 Confidential information.

All reports and records furnished or submitted by handlers to the Board, or obtained by employees of the Board, which include data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler or its customers shall be received by, and at all times kept in the custody and under the control of, one or more employees of the Board. The employees shall disclose such information to no person, including Board members, except the Secretary in connection with enforcement of this part, other legal action, or as otherwise authorized by the act and specifically directed by the Secretary. At no time shall an individual's or firm's records be disclosed to any Board member.

§ 983.34 Reports of acquisitions.

Each handler shall file such reports of acquisitions of pecans as may be requested by the Board.

§ 983.35 Other reports.

Upon the request of the Board and with the approval of the Secretary, each handler shall furnish such other reports and information as are needed to enable the Board to perform its function under this part. Such reports shall be requested only on approval of at least ten members of the Board.

§ 983.36 Records

Each handler shall maintain such records of pecans received, held, and disposed of by him as will substantiate any required reports and will show performance under this part. All such records shall be retained for at least two years beyond the marketing year of their applicabiity.

§ 983.37 Verification of reports.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by handlers or the operation of handlers under the provisions of this part, the Secretary and the Board, through its duly authorized agents, shall have access to any premises where pecans may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any and all records of such handler with respect to the acquisition, holding, or disposition of all pecans which may be held or which may have been disposed of by him.

Expenses and Assessments

§ 983.38 Expenses.

The Board is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of the Board, including and accumulation of a reserve fund for such purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The Board shall file a proposed budget of expenses and a rate of assessment with the Secretary as soon as practicable after the beginning of each marketing year.

§ 983.39 Assessments.

(a) *Assessment rate*—Each handler shall pay to the Board, on demand by the Board, such handler's pro rata share of the expenses authorized by the Secretary for each marketing year based on such rate per pound of inshell pecans handled during such marketing year. The assessment rate shall not exceed one cent ($0.01) per pound of inshell pecans, which ceiling rate shall be adjusted, according to the Consumer Price Index (C.P.I.) for all items, with C.P.I. for all items for 1980 equal to 100: *Provided,* That in no event shall the adjusted assessment exceed two cents ($0.02) per pound of inshell pecans.

(b) *Advance payments and loans*—In order to provide funds to carry out the functions of the Board, the Board may borrow money or may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against the respective handler.

(c) *Reserve*—The Board, with the approval of the Secretary, may establish and maintain during subsequent marketing years a monetary reserve in an amount approximating two years' budgeted expenses. Such reserve funds may be used to defray any authorized expenses under this part.

(d) *Refunds*—Funds held by the Board at the conclusion of the marketing year in excess of its expenses, other than reserve funds, may be used to defray expenses for no more than the ensuing twelve months, and, thereafter, within a reasonable time, the Board shall credit the excess to handlers who contributed to such excess: *Provided,* That the excess due any handler shall be applied, in whole or in part, by the Board to any outstanding obligation due the Board from such handler. Should any handler discontinue handling pecans, such excess shall be refunded to him. A handler's share of such excess funds shall be the amount of assessments he has paid in excess of his pro rata share of the actual expenses of the Board.

(e) *Credit*—A handler shall receive a credit against the assessment on those inshell pecans he sells inshell during the applicable marketing year.

(f) *Disposition of funds upon termination*—Upon termination of this part any funds in possession of the Board shall be distributed in such manner as the Secretary shall direct: *Provided,* That to the extent practicable such funds shall be returned pro rata to the person from whom collected.

Miscellaneous Provisions

§ 983.40 Rights of the Secretary.

The members and alternates of the Board and any agent or employee appointed or employed by the Board shall be subject to removal or suspension by the Secretary, at his

discretion, at any time. Each action of the Board shall be subject to the continuing right of the Secretary to disapprove such action and, upon such disapproval, shall be deemed null and void.

§ 983.41 Personal liability.

No member of the Board or alternate nor any employee or agent thereof shall be held personally responsible either individually or jointly with others, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member, alternate, employee or agent, except for acts of dishonesty, willful misconduct, gross negligence, or disclosure of confidential information.

§ 983.42 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability hereof to any other person, circumstance, or thing shall not be affected thereby.

§ 983.43 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States.

§ 983.44 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 983.45 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any subdivision of the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions of this part.

§ 983.46 Effective time and termination.

(a) *Effective time*—The provisions of this subpart shall become effective at such time as the Secretary may declare and shall continue in force until terminated or suspended in one of the ways hereinafter specified.

(b) *Termination or suspension*—(1) The Secretary may, at any time terminate or suspend the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) the Secretary shall terminate the provisions of this subpart at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers of pecans who during the preceding year have been engaged in the production for market of pecans in the production area: *Provided,* That such majority has during such period produced for market more than 50 percent of the volume of such pecans produced for market within the production area, but such termination shall be effective only if announced on or before July 1 of the then current marketing year.

(4) The Secretary shall conduct a referendum by July 1 of the fifth year following the effective date of this subpart and prior to July 1 every fifth year thereafter to determine whether, in accordance with subparagraph (b)(3) of this section, termination of this subpart is favored by growers: *Provided,* That if a termination referendum is held within any five year period of time as herein provided, the next termination referendum shall be held by July 1 of the fifth year following such referendum.

(5) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination*—(1) Upon the termination of the provisions of this subpart, the members of the Board then functioning shall continue as joint trustees for the purpose of liquidating the affairs of the Board of all funds and property then in the possession or under the control of the Board, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the board and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the joint trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the Board or its members, pursuant to this section, shall be subject to the same obligation imposed upon the members of the said Board and upon said joint trustees.

§ 983.47 Amendment.

No amendment to this subpart shall be adopted unless it meets the requirements of the act and is adopted in accordance with the Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Marketing Orders and the Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended (Title 7, Code of Federal Regulations, §§ 900.1–900.18 and 900.400–900.407, respectively).

§ 983.48 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart or (b) release or extinguish any violation of this subpart of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 983.49 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.[1]

§ 983.50 Additional parties.

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges and immunities conferred by this agreement shall then be effective as to such new contracting party.[1]

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[1] These provisions apply only to the proposed marketing agreement and not to the proposed order.

§ 983.51 Order with marketing agreement.

Each signatory hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of pecans in the same manner as is provided for in this agreement.[1]

Copies of this notice of hearing may be obtained from: J. S. Miller, Room 2525–S, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5697; William C. Knope, P.O. Box 9, Lakeland, Florida 33802, (813) 683–5983, and David B. Fitz, 320 North Main Street, Room A–103, McAllen, Texas 78501, (512) 682–2833.

Signed at Washington, D.C. on December 16, 1982.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc. 82-34684 Filed 12-21-82; 8:45 am]

BILLING CODE 3410-02-M

federal register

Wednesday
December 22, 1982

Part IV

Office of Management and Budget

Budget Report; Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Report, Rescissions and Deferrals

To the Congress of the United States

In accordance with the impoundment Control Act of 1974, I herewith report a proposal to rescind $2,000,000 in budget authority previously provided by the Congress. In addition, I am reporting two new deferrals totaling $18,464,000 and a revision to a previously reported deferral, increasing the amount deferred by $4,408,812.

The rescission proposal is for the Department of Commerce's National Oceanic and Atmospheric Administration. The deferrals affect programs in the Departments of Agriculture and Justice and the Pennsylvaina Avenue Development Corporation.

The details of the rescission proposal and deferrals are contained in the attached reports.

Ronald Reagan.

The White House,
December 16, 1982.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Department of Commerce	
	National Oceanic and Atmospheric Administration	
R83-1	Construction	2,000
	Subtotal, rescission proposal	2,000

Deferral #	Item	Budget Authority
	Department of Agriculture	
	Animal and Plant Health Inspection Service	
D83-34	Salaries and expenses	2,134
	Department of Justice	
	Bureau of Prisons	
D83-35	Buildings and facilities	16,330
	Other Independent Agencies	
	Pennsylvania Avenue Development Corporation Finance	
D83-19A	Land acquisition and development fund	22,358
	Subtotal, deferrals	40,822
	Total, rescission proposal and deferrals	42,822

SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

	Rescissions	Deferrals
Third special message		
New items	2,000	18,464
Change to amount previously submitted	---	4,409
Effects of Third special message	2,000	22,873
Amounts previously submitted that were changed by this message	---	17,949
Total, rescissions and deferrals	2,000	40,822
Amounts previously submitted that were not changed by this message	---	3,323,959
Total amount proposed to date in all special messages	2,000	3,364,781 1/

1/ All amounts listed represent budget authority except for $14,446,000 in one general revenue sharing deferral of outlays only.

Rescission Proposal No: R83-1

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ____): $ ____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 18,550,910
Appropriation title & symbol: Construction 13X1452 1/	Total budgetary resources: 18,550,910
	Amount proposed for rescission: $ 2,000,000
OMB identification code: 13-1452-5-1-306	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This account provides for the planning and construction of administrative and research facilities (Western Regional Center (WRC)) at Sand Point, Seattle, Washington. Funding to complete the construction of additional facilities was received in 1979. Construction costs for the WRC have been less than anticipated and $2 million will no longer be required. This rescission is proposed in accordance with Section 1512, Subchapter II of Title 31, United States Code.

Estimated Effect: Construction of the WRC can be completed as previously planned for less funds than are currently available. Thus, the funds proposed for rescission will not affect the completion of the WRC.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
$5	$3	-2	--	--	--

1/ This account was the subject of a deferral in FY 1982 (D82-5B).

R83-1

NOAA Construction Rescission Language

Of the funds provided for "Construction" in Public Law 95-86, $2 million are rescinded.

Deferral No: D83-34

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Department of Agriculture	New budget authority (P.L. 97-276): $ 58,636,820
Bureau: Animal and Plant Health Inspection Service	Other budgetary resources: 1,980,000
Appropriation title & symbol: Animal and Plant Health Inspection Service, Salaries and Expenses 1221600	Total budgetary resources: 60,616,820
	Amount to be deferred: Part of year: 2,134,000 Entire year: ____
OMB identification code: 12-1600-0-1-352	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year ____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The Animal and Plant Health Inspection Service conducts programs to control, eradicate, or prevent the introduction of animal and plant diseases and pests. In addition, the agency inspects certain establishments which handle animals to ensure their humane treatment. It is necessary to defer these funds in order to establish a more adequate contingency reserve. In the past, APHIS has had to transfer substantial funds from the Commodity Credit Corp. to meet these obligations. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effect: This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-276) for specific program elements while at the same time assuring adequate resources to meet unforeseen and unappropriated commitments associated with APHIS's mission.

Outlay Effect: This deferral action has no outlay effect on the APHIS account since funds will be released and made available for obligation as contingencies arise.

Deferral No: D83-35

D83-19A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Justice	New budget authority (P.L. 97-276) $ 2,640,000
Bureau Bureau of Prisons	Other budgetary resources 60,146,000
Appropriation title & symbol Buildings and Facilities 15X1003 1/	Total budgetary resources 62,786,000
	Amount to be deferred: Part of year ____ Entire year 16,330,000
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling and equipping necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce over crowding, close old and antiquated penitentaries and provide a safe and humane environment for staff and inmates. Due to the time required for planning, design efforts and selection of contractors, it is not possible to complete these projects during FY 1983. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effect: The amount deferred for the entire year could not be economically used if made available in FY 1983.

Outlay Effect: There is no outlay effect of this deferral.

1/ This account was the subject of two deferrals in FY 82 (D82-17B and D82-192).

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014 (c) of Public Law 93-344.

This report updates Deferral No. D83-19, transmitted to the Congress on October 1, 1982.

This revision to a deferral of Pennsylvania Avenue Development Corporation land acquisition and development funds increases the budgetary resources for this fund to reflect new borrowing authority provided in P. L. 97-276 and to reflect increased unobligated balances carried over into FY 1983.

In addition, this report increases the amount previously reported as deferred from $17,948,745 to $22,357,557.

Deferral No: D83-19A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Pennsylvania Avenue Development Corp.	New budget authority (P.L. 97-276) $ 806,968*
Bureau:	Other budgetary resources 33,102,589*
Appropriation title & symbol: Land Acquisition and Development Fund 42X4084 1/	Total budgetary resources 33,909,557*
	Amount to be deferred: Part of year: ____ Entire year: 22,357,557*
OMB identification code: 42-4084-0-3-451	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other ____

Justification: *This account provides borrowing authority to acquire private property to accelerate redevelopment in the Pennsylvania Avenue project area. The 1974 land use plan for the eastern sector of the project area was reviewed and updated in light of current real estate trends and market conditions. The update consisted of a study to determine what design configuration and mixture of land uses are now appropriate for the eastern area.

In order to ensure that new development will be economically self-sufficient and within the resources available to private developers and to limit the level of net out ays, $22.4 million of borrowing authority is deferred.

Estimated Effect: *The Corporation will not proceed with significant new land acquisition activity in the area east of the FBI building. However, borrowing authority will be released on a case-by-case basis when needed to solve development problems.

Outlay Effect: *This deferral will shift $22 million of potential outlays out of FY 1983 into FY 1984.

* Revised from previous report.

1/ This account was the subject of a similar deferral in FY 1982 (D81-40A) other deferrals in FY 1982 (D82-25A).

[FR Doc. 82-34672 Filed 12-21-82; 8:45 am]

BILLING CODE 3110-01-C

federal register

Wednesday
December 22, 1982

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Mining and Reclamation Operations Under the Federal Program for the State of Nebraska; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 927

Surface Mining and Reclamation Operations Under the Federal Program for the State of Nebraska

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

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposes a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Nebraska. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on March 8, 1983 at the address below. A public hearing will be held on March 3, 1983. Requests to testify at the hearing should be received by February 25, 1983. If commenters request a hearing date later than that set, OSM will consider postponing the hearing until a later time, and the new date, if any will be announced by a notice in the **Federal Register.**

ADDRESSES: Written comments must be mailed or hand-delivered to: Administrative Record Room, R&I–30, Office of Surface Mining, 502 Scaritt Building, 818 Grand Avenue, Kansas City, MO 64106. The public hearing on the proposed program will be held at the Nebraska State Office Bldg., 301 Centenial Mall South, Lincoln Nebraska 68509, 2nd Floor, at 3:30 pm.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above in "**ADDRESSES.**"

Public Comment Period

The comment period on the proposed program will extend until March 8, 1983. All written comments must be received at the location above under "**ADDRESSES**" by close of business on that date.

All written comments received, a transcript of the public hearing, summaries of meetings held at the request of any person or organization to receive advice or recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Federal program for Nebraska will be made available for public review during regular business hours at the location listed above.

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues of this proposal. Nor can OSM ensure consideration of written comments received after the comment period ends or those delivered to an address other than that specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by February 25, 1983, no person has expressed an interest in presenting testimony.

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at the time to implement enforce or maintain an approved State program.

An additional standard for the promulgation of a Federal program is found in 30 CFR Part 736, which requires the implementation of a Federal program for a State where the Director of OSM (the Director) "reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *." 30 CFR 736.11(a)(1).

Nebraska has identifiable coal reserves, but has failed to submit a program to the Secretary to obtain primary regulatory responsibility. The Secretary believes that it is reasonable to expect coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands in Nebraska before June, 1985. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(4) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (§ 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, then those State standards are specifically preserved. Thus, the Secretary believes

that the requirements of Section 505(b) can best be met by identifying State laws and regulations which impose equivalent or more stringent environmental controls, and by listing them in § 927.700(e).

Also, in promulgating a program for a State, Section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statues for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes.

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L, and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761, 762 and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843, and 845), and blaster training and certification (Subchapter M). In addition, the provisions in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who perform functions or duties under the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77447 (December 31, 1979); 45 FR 2626–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39445 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981) 46 FR 59934 (December 7, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33431 (August 2, 1982); 47 FR 35620 (August 16, 1982); and 47 FR 38486 (August 31, 1982).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In re: Permanent Surface mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77454); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the Court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The appeals are presently pending before the appellate Court.

Nebraska Federal Program

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Nebraska laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. OSM solicits comments on special provisions that should be promulgated and the basis for those provisions.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" and "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act. The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining and enforcing a Federal program. This proposed program for Nebraska would not change these responsibilities.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of may 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45FR at 32229). however, except for changes to incorporate more stringent State environmental protection standards and to list other State laws requiring permits for which coordination is required, and any specific changes identified which are needed to reflect conditions in a State, OSM believes that few changes are needed in the permanent program regulations.

In January, 1981, the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive, and unecessary. Review of the

permanent program regulations was initiated and may result in a large scale revision of them. See semi-annual calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and OSM's inspection and enforcement regulations, 30 CFR Parts 843, 842, and 845, 47 FR 35620 (August 16, 1982).

In part to take advantage of the results which revision of the permanent program regulations will achieve but also to avoid unnecessary duplication in a Federal program of the permanent program regulations, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations, there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "Part 762 of this chapter . . . shall apply to surface coal mine operations." (See proposed Section 927.762). The result would be the adoption of the provisions of the permanent program regulations for the Nebraska Federal Program.

The promulgation of this cross-referencing program would not result in any modification of the substance of OSM's permanent program rules. Where specific provisions are needed for an individual State's Federal program which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section of that State's Federal program.

An effect of the proposed cross-referencing to the permanent program regulations is that as the permanent program regulations are revised, this Federal program would be similarly revised. All of the permanent program regulations have undergone review and many are being revised. No separate rulemaking would be undertaken or is necessary for revision of this program if the proposed cross-referencing program bcomes effective, unless OSM determined that special conditions were necessary for a particular State. A notice appeared in the **Federal Register** on July 13, 1982, 47 FR 30267, advising the public that each change in the permanent program rules would result in a parallel change in all Federal programs, absent special conditions. The notice invited comments on necessary modifications to accommodate unique or unusual aspects of surface mining in any State so that the final permanent program rule could be tailored for each State's Federal program as necessary.

Several provisions of the permanent program regulations are already applicable to all States's Federal programs and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. However, 30 CFR Part 764—State Processes for Designating Lands Unsuitable for Surface Coal Mining—would be included in the Nebraska program by a cross-reference under Section 927.764, to provide a petition process on non-Federal and non-Indian lands in that State.

With regard to the bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981).

Content and Organization of the Program

The content and organization of the proposed Federal program for the State of Nebraska would generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this proposed program would only include reference to the pertinent permanent program regulation. Sections 927.700 (e) & (f), respectively, list State statutes that are more stringent than, and those that are inconsistent with, the Act. Where specific provisions are needed for any proposed Federal program for a State which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section.

Detailed Discussion

The State of Nebraska has no statutes or regulations specifically intended for regulation of surface coal mining or exploration operations. There are many Nebraska statutes and regulations, however, that apply, or could be interpreted to apply, to surface coal mining or exploration operations. OSM and the Office of the Solicitor have made an extensive study of Nebraska law to determine what laws affect coal-related enterprises and whether they are consistent with or interfere with the Surface Mining Control and Reclamation Act of 1977 (the Act). The Office of the Solicitor also sought to identify those Nebraska agencies whose advice should be sought prior to issuance of surface coal mining or exploration permits, and agencies which issue other kinds of permits that coal operators or exploration operators must obtain. The Secretary solicits comments on how OSM should coordinate its permitting process with the issuance of required State permits.

Nebraska has no statute which generally regulates mining activities. It does impose a business franchise tax on mining, R.S.N. 77–801 *et seq.* (1976 Reissue), and does provide for recording mineral interest conveyances, R.S.N. 57–201 *et seq.* (1978 Reissue). None of the just cited laws interfere with a Federal regulatory program, however.

The principal Nebraska environmental protection statute is Revised Statutes of Nebraska (R.S.N.) Sections 81–1501 through 81–1508 (1981 Supp.), "The Environmental Protection Act." This law empowers the Department of Environmental Control (DEC) as the State agency for enforcing the Federal Water Pollution Control Act (FWPCA) (30 U.S.C. 1251 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), "and any other Federal legislation pertaining to loans or grants for environmental protection" (R.S.N. (1981 Supp.) Section 81–1504 (4)). The Environmental Protection Act, however, may be subject to interpretations that could bring it into conflict with the Act.

R.S.N. Section 81–1504(11) (1981 Supp.) authorizes the DEC to "issue * * * permits * * * to prevent, control, or abate pollution, or for the discharge of wastes into the air, land, or waters of the State * * *." Additionally, Section 81–1504(20) authorizes the Department of Environmental Control to "require all persons engaged or desiring to engage in operations which result or may result in air, water or land pollution to secure a permit prior to installation or operation * * *." Although these provisions purport to regulate sewage and factory wastes under the FWPCA, Clean Air Act, and Resource Conservation and Recovery Act, the broad statements of authority and broad definitions of such terms as "waste" (Section 81–1502(14)), "land pollution" (Section 81–1502(19)), and "hazardous waste" (Section 81–1502(25)) could be interpreted to allow the Department of Environmental Control to require a permit for coal exploration or mining operations beyond those specifically contemplated under these acts.

Similarly, R.S.N. Section 81–1505(13), which authorizes the Environmental Control Council to adopt regulations for hazardous waste management, also authorizes licensing and permitting of facilities and operations. The definition of "hazardous waste" (Section 81–1502(14)) includes solid waste with chemical characteristics that could "pose * * * a potential hazard to human or animal health or the environment * * *." This could encompass acidic or toxic materials in coal mine overburden (spoils) that are regulated by the Act. There are additional permitting provisions in Section 81–1505(14) and reporting provisions in Section 81–1505(16) that are equally applicable to coal mines.

R.S.N. Section 81–1506(1) broadly prohibits pollution of air, water, or land, and Section 81–1506(2) prohibits several activities unless the person responsible has a permit from the Department of Environmental Control. Among the listed activities is "the * * * operation of any industrial * * * or other establishment * * * which would cause an increase in the discharge * * * of wastes into the air, waters or land of the State or would otherwise alter the physical, chemical or biological properties of any air, waters or land in any manner not already lawfully authorized * * *." The operation of a coal mine would necessarily alter some land and water, and possibly air.

OSM tentatively concludes that the Nebraska Environmental Protection Act need not be preempted because it does not interfere with the Act or the Secretary's regulations. However, OSM may conclude in the future that partial preemption is required, but such preemption would not interfere with the requirement that coal mine operators obtain from the Department of Environmental Control National Pollution Discharge Elimination System (NPDES) permits for point sources under FWPCA and the Environmental Protection Act, because compliance with the NPDES permitting program is required by Section 702 of the Act (30 U.S.C. 1292), which states that the Act does not supersede the FWPCA or other Federal environmental laws. Since the U.S. Environmental Protection Agency has delegated NPDES authority to Nebraska, the Department of Environmental Control would have authority to require coal operators to comply with its NPDES law and procedure.

Nor would any such partial preemption interfere with the Department of Environmental Control applying to coal mines any provisions of its air pollution control program that are more stringent than the fugitive dust control measures of 30 CFR 816.95 and 817.95. *The Nebraska Air Pollution Control Rules and Regulations* (as amended through Aug 20, 1980) do not on their face appear applicable to coal mine activities, with the exception of Rule 4–1, which applies new source performance standards to "coal preparation plants." Since the Act does not specifically regulate air pollution from such plants, the Department of Environmental Control would not be preempted from exercising jurisdiction under its rules.

A partial preemption would also not preclude the Department of Environmental Control from issuing a permit to any coal operator who proposed to integrate into his operation a disposal area for any hazardous wastes or solid wastes not generated in the mining process. For instance, an operator might propose to dispose of municipal garbage or industrial solvents in mine pits which are then backfilled with overburden and completely reclaimed. Such a proposal would have to be scrutinized by the Department of Environmental Control under the State's assumption of enforcement authority under the Resource Conservation and Recovery Act as well as by OSM under the Act. An operator could not proceed in such an instance without permits from both agencies.

Although OSM considered proposing here that the Nebraska Environmental Protection Act be preempted and superseded as it may be applied to surface coal mining operations regulated by the Act, it has chosen not to do so at this time, except as indicated above. However, OSM solicits comments on the need for or appropriate extent of any such preemption.

Chapter 37 of the Nebraska Statutes, Game and Parks, includes criminal provisions for offenses against the game, fish, and park laws. Among these are R.S.N. Sections 37–516 and 520 (1978) which describe misdemeanor offenses for pollution of waters of the State. Section 516 makes it unlawful to dump or drain "refuse" from factories, etc., "or other place whatsoever" into Nevraska waters, or to leave "refuse" so it will wash in through natural processes. Refuse is defined to mean oils, tars, etc., and "all other substances which are injurious to aquatic life." This broad definition could include acid, sediment, or metallic ion runoff from coal mines that are subject to regulation under Act and the NPDES permits system, and penalty provisions under those laws. Section 520 makes it unlawful to "run or drain any matter harmful to fish into any waters of this State where same have been stocked by the Game and Parks Commission." "Any matter" could also include coal mine outfalls regulated by the Act and the FWPCA. Although these provisions could interfere with the control of water pollution caused by surface mining and reclamation operations regulated under the Act, OSM does not propose that their application to coal mines regulated under Sections 515 and 516 and 30 CFR Parts 816 and 817 and coal exploration operations regulated under Section 512 of the Act and 30 CFR Part 776 be preempted. However, OSM solicits comment on this issue.

A. Nebraska Laws and Regulations More Stringent Than the Act

The following Nebraska laws and regulations are proposed to be found more stringent than the Act and thus not inconsistent with it.

1. Nebraska has an extensive body of law dealing with groundwater management and quality control. The Nebraska Groundwater Management Act, R.S.N. Section 46–656 *et seq.* (1981 Supp.), authorizes the Director of the Department of Water Resources to designate "control areas" for protection of groundwater quantity and quality. Within such areas, well drillers must obtain permits from the Director and obey his regulations. Drillers of all wells must register the wells pursuant to R.S.N. Section 46–602 (1980 Supp.) within 20 days of completion. There are spacing controls on all wells under R.S.N. Section 46–651 (1981 Supp.). The Department of Environmental Control has promulgated rules governing underground injection of fluids and groundwater protection standards under R.S.N. Section 81–1501 *et seq.* (1981 Supp.). The injection rules are known as Rule 40, UICR, and the groundwater protection standards are cited as Title 118, Chapter 1.

Each of these bodies of law would apply to surface coal mining operations because groundwater monitoring wells are required by the Act and regulations in 30 CFR Parts 816 and 817. The injection regulations would not normally be applicable and would come into play only if the operator chose to dispose of liquid coal mine wastes by underground injection. OSM tentatively concludes that these laws are more stringent than the requirements of the Act.

2. R.S.N. Section 57–104 (1978 reissue) requires coal prospectors to file drill boring specimens from prospecting holes with the State if the State pays them the bonus allowed by Section 57–101 for

discovery of a recoverable coal seam. This requirement is more stringent than the requirements of the Act and 30 CFR Part 776 for coal exploration operations.

3. R.S.N. Section 2–955(b) (1977 Reissue) authorizes noxious weed control authorities to order landowners to control any plant deemed a noxious weed. If the landowner does not comply, the authority will do the work and collect from the landowner the cost of the work. Until paid, the cost is a lien on the land. This statute is an important part of Nebraska's agriculture laws and is consistent with 30 CFR 816.111 and 817.111. It would apply to coal mine operators before and during the reclamation responsibility period. Therefore, Section 2–955(b) is more stringent than the requirements in 30 CFR Chapter VII.

4. The Nebraska Water Quality Standards for Surface Wastes (May 10, 1982) promulgated pursuant to R.S.N. Section 81–1501 *et seq.* (1981 Supp.), complement the NPDES program under the FWPCA and impose obligations on coal operators more stringent than the effluent limitations of 30 CFR Chapter VII.

5. Rule 4 of the Department of Environmental Control, Air Pollution Control Regulations, requires new source performance permits for coal preparation plants. This is more stringent than the regulation of preparation plants under the Act.

6. The Nongame and Endangered Species Conservation Act, R.S.N. Section 37–430 *et seq.* (1978 Reissue), may be more stringent than the provisions of the Federal Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.* and OSM's obligations thereunder, depending on the regulations and designations of the Nebraska Game and Park Commission. However, OSM has not completed its review of the Commission's regulations and, therefore, especially solicits comment from the Commission on this point. Section 37–434(5)–(8) makes it unlawful, among other things, to "take" any species listed by the Commission as threatened or endangered. The term "take," as defined in Section 37–431(10), includes to "harm" or to "kill." Since a coal mine operation could harm or kill any listed species that live on the affected land, the Nongame and Endangered Species Act could impose requirements beyond those of the Federal Endangered Species Act that are incorporated into the Secretary's regulations under the Act and which, therefore, are more stringent. OSM is proposing to identify in Section 927.700(e)(10) the State's Nongame and Endangered Species Act as one which is more stringent. Should the review result in a determination that the State's statute does not provide more stringent protection, the statute will not be listed in the final Federal program rule notice.

B. Nebraska Laws That Interfere With Achievement of the Purposes of the Act

OSM proposes to preempt or supersede in part, the following Nebraska laws to the extent that they interfere with the achievement of the purposes and requirements of the Act.

1. R.S.N. Sections 28–1213 to 28–1239 (1979 Reissue) regulate the use of explosives. Section 1229 authorizes the State Fire Marshal to issue permits for storage, transportation or use of explosives. Section 1229(5) prescribes general standards for issuance of use permits, including that the applicant pass an examination prescribed by the State Fire Marshal. OSM is not familiar with the details of any examination the State Fire Marshal may have for qualifying persons for blasting at a surface coal mining operation. OSM regulates training and certification of coal mine blasting personnel under 30 CFR Part 850 and is developing a national minimum standards tests. It is proposed that R.S.N. Section 28–1229 be preempted insofar as they apply to surface coal mining operations unless it is demonstrated that the State Fire Marshal's examination and permit do not interfere with achievement of the purposes of a Federal program. However, OSM solicits comments on this issue from the State Fire Marshal and the public.

2. The R.S.N. Section 23–174.10 (1980 Supp.) allows Nebraska counties which have adopted zoning regulations under Chapter 23 to "make regulations as may be necessary or expedient to promote the public health, safety, and welfare, including * * * rules for the prevention, abatement, and removal of nuisances, including the pollution of air and water * * *. Such regulations shall not be inconsistent with the general laws of the State * * *." To the extent a Nebraska county has authority under this statute to enact regulations more stringent than OSM's regulations for coal mines, there would be no conflict with the Act. However, to the extent any county sought to regulate coal mining or exploration in a manner that interfered with implementation of a Federal program through OSM's regulations, the county's regulation would have to be preempted. OSM, therefore, proposes to preempt Section 23–174.10 to the extent it may be used to regulate surface coal mining and reclamation operations by a county government in any way which interferes with achievement of the purposes and requirements of the Act.

3. The R.S.N. Section 46–277 (1980 Supp.) authorizes the Department of Water Resources to approve the construction of dams inpounding ten acre-feet or more of water and to conduct inspections of dams impounding fifteen or more acre-feet. If safety problems are found, the Director of the Department of Water Resources may order repairs, which must be completed within 90 days. This statute may interfere with the Secretary's standards for sediment ponds and permanent impoundments at coal mines contained in 30 CFR 816.49, 816.91–.93, 817.49, and 817.91–.93; although in some instances, the Director's standards could be more stringent than the Secretary's. It is not clear from the statute what standards the Director applies to dam safety. OSM tentatively concludes that R.S.N. Section 46–277 (1980 Supp.) should be preempted as it is applied to coal mine impoundments regulated under the Act to the extent its standards and enforcement mechanisms interfere with 30 CFR 816.49, 816.91–.93, 817.49, and 817.91–.93. OSM solicits comments from the Nebraska Department of Water Resources and from the public on this issue.

C. State Permitting Requirements Applicable to Coal Mines With Which OSM Must Coordinate

OSM has tentatively identified several Nebraska laws that may be applicable to coal mining and exploration operations and which require a license or permit. In the process of issuing permits under the Act, OSM must coordinate its review with these other State permitting processes to comply with Section 504(h) of the Act 30 U.S.C. 1254(h). OSM proposes to consider in its review of permit applications under the Federal program the applican'ts status as to the following laws:

1. The requirements of R.S.N. Section 28–1229 (1979 Reissue), which requires permits from the State Fire Marshal for the purchase, use and storage of explosives, and the rules promulgated thereunder.

2. The requirements for an NPDES permit under the Environmental Protection Act, R.S.N. Section 81–1501 *et seq.* (1981 Supp.), and the rules promulgated thereunder.

3. The requirements for an air pollution permit for coal preparation plants under Rule 4, APC, Nebraska Department of Environmental Control.

4. The requirements for groundwater well permits under R.S.N. Section 46–659

(1981 Supp.) where the mine is in a designated control area.

5. The requirement for a hazardous waste permit under R.S.N. Section 81-1505(13) (1981 Supp.) for any coal operation that proposes to integrate into the mining and reclamation plan the disposal of hazardous wastes generated beyond the mine site.

D. Consultation by OSM With Additional State Agencies

In addition to coordinating its permitting process with State agencies which require permits applicable to coal mines, OSM proposes to consult with several other State agencies whose views would be necessary to a successful Federal program in Nebraska.

(1) OSM will consult with the Nebraska Policy Research Office and the appropriate local planning agencies regarding the compatibility of proposed coal mining or exploration operations, and post-mining land-use proposals, with existing land-use plans and zoning regulations.

(2) OSM will consult with the Nebraska Game and Parks Commission regarding the effect of proposed coal mining or exploration operations on State parks, game and fish populations and habitat and, in particular, endangered or threatened species.

(3) OSM will consult with the Nebraska Natural Resources Commission and local Natural Resources Districts regarding the effect of proposed coal mining or exploration operations on local district plans for soil and water conservation and on flood control projects. This consultation is important to the determination of probable hydrologic consequences of the proposed mine and to the determination of probable cumulative impacts of mining in the vicinity required by Section 507(b)(11) of the Act, 30 U.S.C. 1257(b)(11).

(4) OSM will also consult with the Nebraska Department of Water Resources and local groundwater conservation districts regarding the hydrologic consequences of proposed operations, particularly the effect of the operation on groundwater and the need for, and proper location of, monitoring wells.

(5) OSM will consult with the Nebraska Department of Agriculture regarding identification of prime farmlands on proposed mining areas, and will seek the Department's advice regarding the proposed plans for removal, replacement, and revegetation of soils. Advice will also be sought regarding appropriate seed mixtures, planting times, cultivation, and control of noxious weeds.

OSM solicits comments from the public and Nebraska agencies as to whether there are other matters requiring consultation and whether there are other State agencies that should be regularly consulted by OSM during the permitting process under the proposed Federal program.

Copies of the Nebraska statutes and regulations referred to herein are in the administrative record and are available for review at the place listed above under "**ADDRESSES.**"

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this rule would contain information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only when ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Other Information

OSM has examined these proposed rules according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that they do not constitute a major rule. There would be no major economic impact through adoption of this rule because it would affect only a small number of mining operations.

OSM has examined these proposed rules pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR Part 927

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

Drafting Information

These regulations were drafted by Gerald A. Thornton, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

OSM proposes to add Part 927 to 30 CFR Chapter VII to read as follows:

PART 927—NEBRASKA

Sec.

927.700 Nebraska program.
927.701 General.
927.707 Exemption for coal extraction incident to government-financed highway or other construction.
927.761 Areas designated unsuitable for surface coal mining by Act of Congress.
927.762 Criteria for designating areas as unsuitable for surface coal mining operations.
927.764 Process for designating areas unsuitable for surface coal mining operations.
927.770 General requirements for permit and exploration procedures.
927.771 General requirements for permits and permit applications.
927.776 General requirements for coal exploration.
927.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
927.779 Surface mining permit applications—minimum requirements for information on environmental resources.
927.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.
927.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.
927.783 Underground mining permit applications—minimum requirements for information on environmental resources.
927.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
927.785 Requirements for permits for special categories of mining.
927.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.
927.787 Administrative and judicial review of decisions on permit applications.
927.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
927.795 Small operator assistance.
927.800 General requirements for bonding of surface coal mining and reclamation operations.
927.815 Performance standards—coal exploration.
927.816 Performance standards—surface mining activities.
927.817 Performance standards—underground mining activities.
927.818 Special performance standards—concurrent surface and underground mining.

Sec.

927.819 Special performance standards—auger mining.
927.822 Special performance standards—operations in alluvial valley floors.
927.823 Special performance standards—operations on prime farmland
927.824 Special performance standards—mountaintop removal.
927.826 Special performance standards—operations on steep slopes.
927.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
927.828 Special performance standards—In Situ processing.
927.842 Federal inspections.
927.843 Federal enforcement.
927.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, 91 Stat. 445.

§ 927.700 Nebraska program.

(a) This part contains all rules that are applicable to surface coal mining operations in Nebraska which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Nebraska Federal program.

(c) The rules in this part apply to all surface coal mining operations in Nebraska conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Nebraska.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Nebraska laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to Section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) The Nebraska Groundwater Management Act, Revised Statutes of Nebraska (R.S.N.) Section 46–6565 *et seq.* (1981 Supp.), regarding water wells and boreholes drilled at coal mining and exploration operations.

(2) R.S.N. Section 46–602 (1980 Supp.), requiring registration of water wells.

(3) R.S.N. Section 46–651 (1981 Supp.), providing spacing controls on wells.

(4) Rule 40, UICR, Nebraska Department of Environmental Control, governing underground injection of fluids.

(5) The Rules in Title 118, Ch. 1, Nebraska Department of Environmental Control, concerning groundwater protection standards.

(6) R.S.N. Section 57–104 (1978 Reissue), which requires coal prospectors to file drill boring specimens from prospecting holes with the State if the State pays the bonus allowed by Section 57–101 for discovery of a marketable coal seam.

(7) R.S.N. Section 2–955(b) (1977 Reissue), governing control of noxious weeds.

(8) The Nebraska Water Quality Standards for Surface Waters (dated May 10, 1982), Rules 1–9, W.Q.S., Nebraska Department of Environmental Control.

(9) Rule 4, Air Pollution Control Regulations, Nebraska Department of Environmental Control, regarding coal preparation plants.

(10) The Nongame and Endangered Species Conservation Act, R.S.N. Section 37–430 *et seq.* (1978 Reissue), to the extent it protects species beyond the protection available under the Federal Endangered Species Act, 16 U.S.C. Section 1531 *et seq.*

(f) The following are Nebraska laws that interfere with the achievement of the purposes and requirements of the Act and are, in accordance with Section 504(g) of the Act, preempted and superseded insofar as they affect coal exploration and surface coal mining and reclamation operations. This preemption does not apply to any surface coal mining operation that affects two acres or less or from which 250 tons or less of coal is removed or intended to be removed for commercial purposes. The preemption also does not apply where removal of coal is incidental to the extraction of the minerals and does not exceed 16⅔ percent of the tonnage of minerals removed for purposes of commercial use or sale, or where the extraction of coal is an incidental part to Federal, State, or local government financed highway or other construction.

(1) R.S.N. Sections 28–1213 to 28–1239 (1979 Reissue) regulates the use of explosives.

(2) R.S.N. 23–174.10 (1980 Supp.) and county zoning regulations promulgated thereunder, to the extent they purport to regulate coal mining and exploration operations.

(3) R.S.N. 46–277 (1980 Supp.) to the extent that its dam safety and enforcement standards interfere with the regulatory scheme for coal mine impoundments under 30 CFR Chapter VII.

§ 927.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in Nebraska.

§ 927.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 927.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 927.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mine operations.

§ 927.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mine operations one year after the effective date of this program.

§ 927.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to coal exploration and surface coal mining and reclamation operations.

(b) Where applicable, no person shall conduct coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued pursuant to:

(1) R.S.N. 28–1229 (1979 Reissue), pertaining to permits from the State Fire Marshal for the purchase, use and storage of explosives, to the extent not preempted under 30 CFR 927.700(f).

(2) The Nebraska National Pollutant Discharge Elimination System under R.S.N. 81–1501 *et seq.* (1981 Supp.),

Nebraska Department of Environmental Control.

(3) Rule 4, APC, Nebraska Department of Environmental Control, pertaining to coal preparation plants.

(4) R.S.N. 46–659 (1981 Supp.), pertaining to groundwater wells.

(5) R.S.N. 81–1505(13) (1981 Supp.), pertaining to hazardous waste permits, for hazardous wastes to be disposed of at a mine that are not generated in the mining process.

(c) The Secretary shall preserve applicable requirements of the Nebraska Environmental Protection Act, 81–1501 *et seq.* R.S.N. (1981 Supp.), to the extent not preempted by 30 CFR 927.700(f); the Nebraska Groundwater Management Act, R.S.N. 46–656 *et seq.* (1981 Supp.); R.S.N. 46–602 (1980 Supp.); R.S.N. 46–651 (1981 Supp.); Rule 40, UICR, Nebraska Department of Environmental Control; Title 118, Ch. 1, Nebraska Department of Environmental Control (groundwater protection standards); R.S.N. 57–104 (1978 Reissue); R.S.N. 2–955(b) (1977 Reissue); Rules 1–9, W.Q.S., Nebraska Department of Environmental Control; Rule 4, Air Pollution Control Regulations, Nebraska Department of Environmental Control; and the Nongame and Endangered Species Conservation Act, R.S.N. 37–430 *et seq.* (1978 Reissue).

(d) The Secretary shall coordinate review of permits, where applicable, with the following State agencies:

(1) The Nebraska Policy Research Office and appropriate local planning agencies regarding the compatibility of proposed coal exploration or surface coal mining and reclamation, and post-mining land-use proposals, with existing land-use plans and zoning regulations.

(2) The Nebraska Game and Parks Commission regarding the effect of proposed coal exploration or surface coal mining and reclamation operations on State parks, game and fish populations and habitat, and endangered or threatened species.

(3) The Nebraska Natural Resources Commission and local Natural Resources Districts regarding the effect of proposed coal mining or exploration operations on local district plans for soil and water conservation and on flood control projects.

(4) The Nebraska Department of Water Resources and local groundwater conservation districts regarding the hydrologic consequences of proposed coal mining or exploration operations.

(5) The Nebraska Department of Agriculture regarding identification of prime farmlands in proposed mine areas, advice on operators' plans to remove, replace, and revegetate soils, advice on seed mixtures, planting times, and control of noxious weeds.

§ 927.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mine operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 927.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 927.778 Surface mining permit applications—minimum requirements for legal, financial, compliance and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 927.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 927.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 927.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 927.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground coal mining operations.

§ 927.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground coal mining operations.

§ 927.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 927.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Parts 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 927.787 Administrative and judicial review of decisions on permit applications.

Decisions on permit applications shall be subject to administrative and judicial

review in accordance with Part 787 of this chapter and Sections 520, 525 and 526 of the Act.

§ 927.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mining and reclamation operations, and to transfer, sale, and assignment of rights granted under permits.

§ 927.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 927.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 927.815 Performance standards—coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 927.816 Performance standards—surface mining activities.

Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

§ 927.817 Performance standards—underground mining activities.

Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground coal mining operations.

§ 927.818 Special performance standards—concurrent surface and underground mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground coal mining operations.

§ 927.819 Special performance standards—auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 927.822 Special performance standards—operations in alluvial valley floors.

Part 822 of this chapter, Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors, shall apply to any person who conducts surface coal mining and reclamation operations on alluvial valley floors.

§ 927.823 Special performance standards—operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 927.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 927.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 927.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 927.828 Special performance standards—in Situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 927.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 842, the Office will furnish a copy of each inspection report regarding inspections conducted pursuant to this part to the Nebraska Department of Environmental Control upon request.

§ 927.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations or exploration operations.

(b) The Office will furnish a copy of each enforcement action and order to show cause issued pursuant to this part to the Nebraska Department of Environmental Control upon request.

§ 927.845 Civil penalities.

Part 845 of this chapter, Civil Penalities, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations or exploration operations.

[FR Doc. 82-34706 Filed 12-21-82; 8:45 am]
BILLING CODE 4310-05-M

federal register

Wednesday
December 22, 1982

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Mining and Reclamation Operations Under the Federal Program for Rhode Island; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 939

Surface Mining and Reclamation Operations Under a Federal Program for Rhode Island

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposes a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Rhode Island. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on February 28, 1983 at the address below. A public hearing will be held on February 23, 1983. Requests to testify at the hearing should be received by February 18, 1983. If commenters request a hearing date later than that set, OSM will consider postponing the hearing until a later time; any new date will be announced by a notice in the **Federal Register.**

ADDRESSES: Written comments must be mailed or hand-delivered to: Administrative Record Room R&I—19, Office of Surface Mining, Pennsylvania Field Office, 100 Chestnut St., Suite 300, Harrisburg, Pennsylvania 17101.

The public hearing on the proposed program will be held at the John O. Pastore Federal Building, Room 309, Exchange Terrace, Providence, Rhode Island 02903 at 12:00 noon.

FOR FURTHER INFORMATON CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above in **"ADDRESSES."**

Public Comment Period

The comment period on the proposed program will extend until February 28, 1983. All written comments must be received at the location above under **"ADDRESSES"** by close of business on that date.

All written comments received, a transcript of the public hearing, summaries of meetings held at the request of any person or organization to receive advice or recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Federal program for Rhode Island will be made available for public review during regular business hours at the location listed above.

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues in this proposal. Nor can OSM ensure consideration of written comments received after the comment period ends or those delivered to an address other than that specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by February 18, 1983, no person has expressed interest in presenting testimony.

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce or maintain an approved State program.

An additional standard for the promulgation of a Federal program is found in 30 CFR Part 7–36, which requires the implementation of a Federal program for a State where the Director of OSM (the Director) "reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *." 30 CFR 736.11(a)(1).

The State has identifiable coal reserves, but has failed to submit a program to the Secretary to obtain primary regulatory responsibility. The Director believes that it is reasonable to expect that coal exploration or surface coal mining will occur in Rhode Island before June 1985. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (Section 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, then those State standards are specifically preserved. Thus, the Secretary believes that the requirements of Section 505(b) can best be met by identifying Rhode Island laws and regulations which impose equivalent or more stringent

environmental controls, and by listing them in § 939.700(e).

Also, in promulgating a program for a State, Section 504(g) of the Act specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes.

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Part 760, 761, 762, and 764), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provision in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who perform functions or duties under the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77447 (December 31, 1979); 45 FR 2626–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39447 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 59934 (December 7, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33431 (August 2, 1982); 47 FR 35620 (August 16, 1982); and 47 FR 38486 (August 31, 1982).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77455); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the Court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The appeals are presently pending before the appellate court.

Rhode Island Federal Program

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Rhode Island laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. OSM solicits comments on special provisions that should be promulgated and the basis for those provisions.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" and "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act.

The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining and enforcing a Federal program. This proposed program for Rhode Island would not change these responsibilities.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the Particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR at 32229). However, except for changes to incorporate more stringent State environmental protection standards, to list State laws requiring permits for which coordination is required, and any specific changes identified which are needed to reflect conditions in a State, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

In January 1981 the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive and unnecessary. Review of the permanent program regulations was initiated and may result in a large scale revision of

them. See semi-annual Calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and OSM's inspection and enforcement regulations, 30 CFR Parts 842, 843, and 845, 47 FR 35620 (August 16, 1982).

In order to take advantage of the results which revision of the permanent program regulations will achieve, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "Part 762 of this chapter * * * shall apply to surface coal mine operations." (see proposed § 939.762). One effect of the proposed cross-referencing to the permanent program regulations would be that as the permanent program regulations are revised, this Federal program would be similarly revised. Over time, all of the permenent program regulations will undergo review and many will be revised. No separate rulemaking would be undertaken or necessary for revision of this program if the cross-referencing alternative becomes effective, unless OSM determined that special conditions were necessary for a particular State. A notice appeared in the Federal Register on July 13, 1982 (47 FR 30267), advising the public that all changes in the permanent program rules would also result in corresponding changes in Federal programs, absent special conditions. The notice invited comments on necessary modifications to accommodate unique or unusual aspects of surface mining in any State so that the final permanent program rule would be tailored for each State's Federal program as necessary.

The promulgation of this cross-referencing program would not result in any modification of the substance of OSM's permanent program rules. Where specific provisions are needed for an individual State's Federal program which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section of that State's Federal program. Cross-referencing to the permanent program rules is also being used in the promulgation of other Federal programs. Public comment on the cross-referencing method as it affects other Federal programs, however, should be directed to each of those rulemaking notices.

Several provisions of the permanent program regulations are already applicable to this Federal program and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees, Part 706—Restrictions on Financial Interest of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. (30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining, would be included in the Rhode Island program by a cross-reference under § 939.764, to provide a petition process on non-Federal and non-Indian lands in that State.)

With regard to the bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981) (proposed).

Content and Organization of the Program

The content and organization of the proposed Federal program for Rhode Island would generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this proposed program would include only reference to the pertinent permanent program regulation. Sections 939.700 (e) and (f) set out more stringent and inconsistent State statutes respectively. Where specific provisions are needed for each proposed Federal program for a State which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section.

Detailed Discussion

Since Section 504(a) of the Act obligates the Secretary to take into account the nature of the terrain and the climate as well as biological, chemical, and other relevant physical conditions in each State, OSM reviewed Rhode Island's pertinent statutes in the process of developing this proposed Federal program. OSM has determined that there are statutes which, under certain circumstances, impose stricter environmental controls than those provide by either the Act of the Federal regulations. Section 939.700(e) of this proposed Federal program lists the laws of Rhode Island which OSM has tentatively identified as setting more stringent land use and environmental controls for surface mining. These Rhode Island statutes may be summarized as follows:

(a) The Rhode Island Hazardous Waste Management Act of 1978, as amended, R.I. General Laws Sections 23–19.1–1 to 23–19.1–22, makes it unlawful to treat or dispose of hazardous wastes anywhere within the State of Rhode Island without an approved permit issued by the Director of the Department of Environmental Management. This statute also prohibits the disposal of waste in any area overlying underground water sources designated by the U.S. Geological Survey and the Rhode Island Water Resources Board. R.I. General Laws Sections 23–19.1–10. Any person who violates the Act's provisions is deemed to be absolutely liable for the costs of cleanup and removal of the discharged wastes and for all damages and injuries, including environmental losses, which result directly or indirectly from the unauthorized discharge. R.I. General Laws Section 23–19.1–22. Intentional or grossly negligent violations of these statutes are criminal offenses punishable by a maximum fine of $25,000 or a minimum prison term of five years, or both. R.I. General Laws Section 23–19.1–18(A).

(b) R.I. General Laws Sections 46–12–1 to 46–12–37 (statutes controlling the pollution of State waters) prohibit, *inter alia*, the entrance or discharge of sewage waste into any waters of the State without an order of approval from the Director of the Department of Environmental Management. This statute includes a provision imposing strict liability for negligent or intentional pollution of ground waters in the State. R.I. General Laws Section 46–12–37.

Members of the public are invited to comment on whether the laws identified in § 939.700(e) of the proposed Rhode Island Federal program as instances of more stringent State environmental controls adequately take into consideration the nature of the relevant physical conditions in Rhode Island.

OSM also requests comments identifying any other State laws which establish more stringent land use and environmental controls than does the permanent Federal program.

Section 939.700(f) states that no State laws have been identified as interfering with the Act's requirements and frustrating the accomplishment of its goals. If such State laws did exist, they would be preempted and superseded by the Federal program. Interested persons are urged to submit comments on any State laws or regulations which would, if complied with by an operator,

interfere with achievement of the purposes and requirements of the Act.

In order to coordinate the Federal program permitting process under the Act with the permitting requirements imposed by other Federal statutes and by Rhode Island, § 939.770 of the proposed Federal program tentatively identifies the following pertinent permits, statutes, and rules.

(a) Air contaminant discharge permits and variances granted by the Department of Environmental Management pursuant to the Rhode Island Clean Air Act, R.I. General Laws Sections 23–23–1 to 23–23–23.

(b) Chapter 20 of the Rhode Island Act on Waters and Navigation, R.I. General Laws Sections 46–20–1 to 46–20–5, permit an owner of any lands in the State to file a petition with the town council of the town in which the lands are situated for permission to drain his lands.

(c) The Act for Inspection of Dams and Reservoirs, R.I. General Laws Sections 46–19–1 to 46–19–8, prohibits construction or substantial alteration of any dam or reservoir without first filing with the Department of Environmental Management, the work plan proposal and specifications, and securing written approval of the Director.

(d) Permits to possess or use explosives and permits for quarry operations and repeated blasting issued by the State Fire Marshal. No person shall conduct blasting operations without first posting a bond and obtaining a license from the State Fire Marshal. R.I. General Laws Sections 23–28.28–1 to 23–28.28–27.

(e) Permits from the appropriate local historic district commission are required prior to any construction, alteration, or demolition affecting any structures within a historic district. R.I. General Laws Sections 45–24.1–1 to 45–24.1–16.

(f) The antiquities Act of Rhode Island, R.I. General Laws Sections 42–45.1–1 to 42–45.1–13, prohibits exploration or excavation activities on any site designated as a State archeological landmark without a permit from the State Historical Preservation Commission.

(g) Permits for dredging, filling, or otherwise altering coastal wetlands and all directly related contiguous areas are issued by the Coastal Resources Management Council. R.I. General Laws Sections 46–23–1 to 46–23–17.

(h) Permits and variances relative to disposal, transportation, and containment of hazardous wastes are issued by the Department of Environmental Management pursuant to the Rhode Island Hazardous Waste Management Act of 1978. R.I. General Laws Sections 23–19.1–1 to 23–19.1–22.

(i) The Department of Environmental Management is responsible for issuing orders of approval authorizing discharge of sewage into waterways within the State and modification or operation of sewage disposal systems. R.I. General Laws Sections 46–12–1 to 46–12–37.

(j) The Wetlands Protection Act, R.I. General Laws Sections 2–1–21 to 2–1–24, authorizes the Department of Environmental Management to designate wetlands and issue permits for excavation, drainage, or any other alteration affecting wetlands within the State.

Copies of the above Rhode Island statutes and other Rhode Island statutes referred to herein are in the administrative record and are available for review at the place listed above under "**ADDRESSES.**"

Part 939.764 specifies that the process for designating land unsuitable shall begin on May 28, 1983. This is because the Federal coal exploration program was promulgated April 28, 1982 (47 FR 18232 *et seq.*), effective on May 28, 1982, which started the one-year waiting period required under section 504(a) of the Act. See 47 FR 18236.

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this rule would contain information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only when ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Other Information

OSM has examined these proposed rules according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that they do not constitute a major rule. There would be no major economic impact through adoption of this rule because it would affect only a small number of mining operations.

OSM has examined these proposed rules to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR Part 939

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

Drafing Information

These regulations were drafted by Patricia McHugh, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Daniel N. Miller, Jr,

Assistant Secretary, Energy and Minerals.

OSM proposes to delete the existing Part 939 of 30 CFR Chapter VII, and add the following Part 939 to read as follows:

PART 939—RHODE ISLAND

Sec.

939.700 Rhode Island Program.
939.701 General.
939.707 Exemption for coal extraction incident to government-financed highway or other construction.
939.761 Areas designated unsuitable for surface coal mining by Act of Congress.
939.762 Criteria for designating areas as unsuitable for surface coal mining operations.
939.764 Process for designating areas unsuitable for surface mining operations.
939.770 General requirements for permit and exploration procedures.
939.771 General requirements for permits and permit applications.
939.776 General requirements for coal exploration.
939.778 Surface mining permit applications—Minimum requirements for legal, financial, compliance, and related information.
939.779 Surface mining permit applications—Minimum requirements for information on environmental resources.
939.780 Surface mining permit applications—Minimum requirements for reclamation and operations plan.
939.782 Underground mining permit applications—Minimum requirements for legal, financial, compliance, and related information.
939.783 Underground mining permit applications—Minimum requirements for information on environmental resources.
939.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.
939.785 Requirements for permits for special categories of mining.
939.786 Review, public participation, and approval or disapproval of permit

Sec.
applications and permit terms and conditions.
939.787 Administrative and judicial review of decisions on permit applications.
939.788 Permit review, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
939.795 Small operator assistance.
939.800 General requirements for bonding of surface coal mining and reclamation operations.
939.815 Performance standards—Coal exploration.
939.816 Performance standards—Surface mining activities.
939.817 Performance standards—Underground mining activities.
939.818 Special performance standards—Concurrent surface and underground mining.
939.819 Special performance standards—Auger mining.
939.823 Special performance standards—Operations on prime farmland.
939.824 Special performance standards—Mountaintop removal.
939.826 Special performance standards—Operations on steep slopes.
939.827 Special performance standards—Coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
939.828 Special performance standards—In situ processing.
939.842 Federal inspections.
939.843 Federal enforcement.
939.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq., 91 Stat. 445 et seq.

§ 939.700 Rhode Island program.

(a) This part contains all rules that are applicable to surface coal mining and reclamation operations in Rhode Island which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Rhode Island Federal program.

(c) The rules in this part apply to all surface coal mining and reclamation operations in Rhode Island conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Rhode Island.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Rhode Island laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining and reclamation operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) R.I. General Laws sections 23–19.1–1 to 23–19.1–22, regulating treatment, disposal, and transportation of hazardous wastes within the State of Rhode Island.

(2) R.I. General Laws sections 46–12–1 to 46–12–37, controlling the pollution of any of the State's waterways.

(f) There are no Rhode Island laws that interfere with the purposes and requirements of the Act and which must be superseded and preempted pursuant to section 504(g).

§ 939.701 General.

Sections 700.5, 700.11, 700.2, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in Rhode Island.

§ 939.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 939.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 939.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mining and reclamation operations.

§ 939.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall become applicable in Rhode Island on May 28, 1983.

§ 939.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to coal exploration and surface coal mining and reclamation operations.

(b) The Secretary shall coordinate issuance of coal exploration permits for the removal of more than 250 tons of coal and permits for surface coal mining operations pursuant to 30 CFR Part 770 with permits issued pursuant to State law, including: the Wetlands Protection Act (R.I. General Laws section 2–1–22); chapter 20 of the Waters and Navigation Act (petitions for ditches and drains) (R.I. General Laws section 46–20–1 et seq.); the Coastal Resources Management Council Act of 1971 (R.I. General Laws section 46–23–6); the Rhode Island Clean Air Act (R.I. General Laws section 23–23–15), the Rhode Island Hazardous Waste Management Act of 1978 (R.I. General Laws sections 23–19.1–11 et seq.); the Rhode Island Act for Inspection of Dams and Reservoirs (R.I. General Laws section 46–19–1 et seq.) and Chapter 23–28.28 of Rhode Island's Health and Safety Code (R.I. General Laws section 23–28.28–1 et seq., permits for blasting), and an order of approval authorizing discharge of sewage into waterways within the State and modification or operation of sewage disposal systems if applicable (R.I. General Laws sections 46–12–1 to 46–12–37). The permit issued by the Secretary shall incorporate the requirements of the Rhode Island Historical Zoning Act of 1954, as amended (R.I. General Laws section 45–24.1–1 et seq.), and the Rhode Island Antiquities Act of 1974 (R.I. General Laws section 42–45.1–1 et seq.).

§ 939.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 939.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 939.778 Surface mining permit application—Minimum requirements for legal, financial, compliance and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 939.779 Surface mining permit applications—Minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 939.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.

(a) Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

(b) The applicant for a permit shall demonstrate compliance with Rhode Island air quality control laws (R.I. General Laws section 23–23–1 et seq.) by obtaining an order of approval from the Director of the Department of Environmental Management for any facility with the potential to emit one ton per year or more of any air contaminant to R.I. General Laws section 23–23–15.

§ 939.782 Underground mining permit applications—Minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 939.783 Underground mining permit applications—Minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground coal mining operations.

§ 939.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground coal mining.

§ 939.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 939.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 939.787 Administrative and judicial review of decisions on permit applications.

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and sections 520, 525 and 526 of the Act.

§ 939.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 939.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 939.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 939.815 Performance standards—Coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 939.816 Performance standards—Surface mining activities.

Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

§ 939.817 Performance standards—Underground mining activities.

Part 817 of this chapter, Permanent Program Performance Standards—Undeground Mining Activities, shall apply to any person who conducts underground coal mining operations.

§ 939.818 Special performance standards—Concurrent surface and underground mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground coal mining operations.

§ 939.819 Special performance standards—Auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 939.823 Special performance standards—Operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 939.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations

constituting mountaintop removal mining.

§ 939.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 939.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 939.828 Special performance standards—in situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 939.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all coal exploration and surface coal mining and reclamation operations.

(b) The Secretary will furnish copies of inspection reports and reports of any enforcement action taken to the Rhode Island Department of Environmental Management upon request.

§ 939.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on coal exploration or surface coal mining and reclamation operations.

(b) The Office will furnish a copy of any order to show cause to the Rhode Island Department of Environmental Management upon request.

§ 939.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

[FR Doc. 82-34718 Filed 12-21-82; 8:45 am]

BILLING CODE 4310-05-M

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H.J. Res. 595/Pub. L. 97–368. Designating December 11, 1982, as "Fiorello H. LaGuardia Memorial Day." (December 17, 1982; 96 Stat. 1764); Price: $1.75.

H.R. 7019/Pub. L. 97–369. Department of Transportation and Related Agencies Appropriations Act, 1983. (December 18, 1982; 96 Stat. 1765) Price: $3.00.

H.R. 7072/Pub. L. 97–370. Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other other purposes. (December 18, 1982; 96 Stat. 1787) Price: $3.25.

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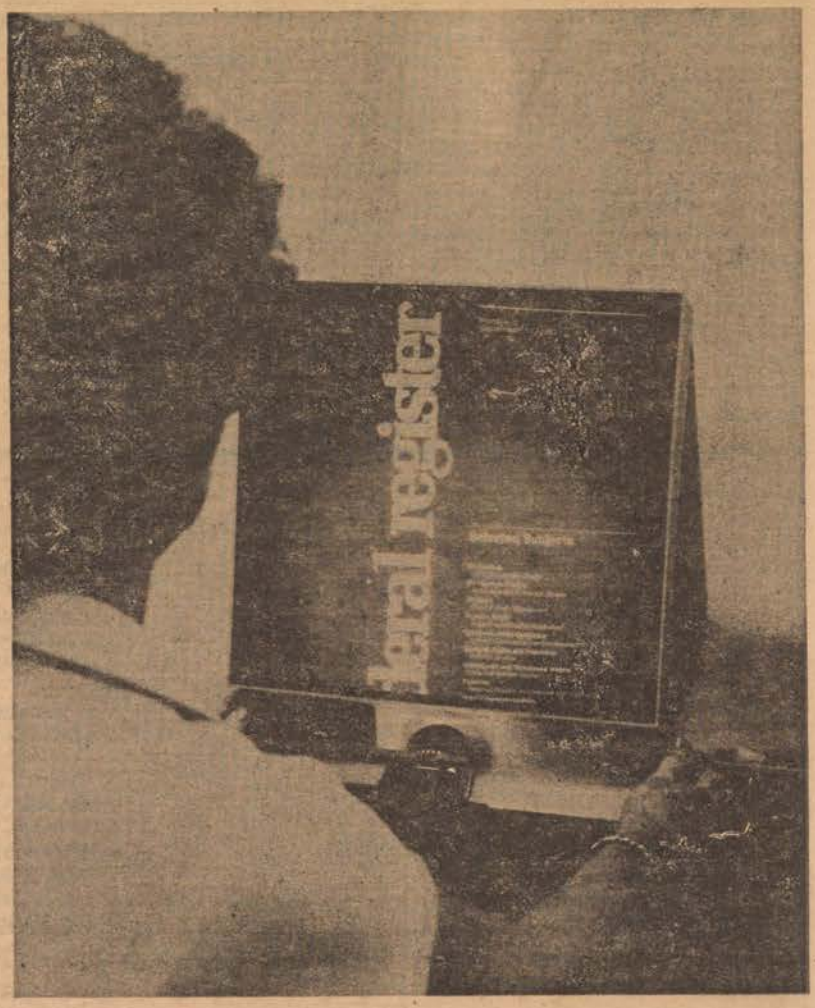

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