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federal register

Monday
March 28, 1983

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Federal Communications Commission

Air Pollution Control
Environmental Protection Agency

Animal Biologics
Animal and Plant Health Inspection Service

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Presidential Documents

Title 3—

The President

Proclamation 5034 of March 21, 1983

Afghanistan Day, 1983

By the President of the United States of America

A Proclamation

The tragedy of Afghanistan continues as the valiant and courageous Afghan freedom fighters persevere in standing up against the brutal power of the Soviet invasion and occupation. The Afghan people are struggling to reclaim their freedom, which was taken from them when the Soviet Union invaded Afghanistan in December of 1979.

In this three-year period the Soviet Union has been unable to subjugate Afghanistan. The Soviet forces are pitted against an extraordinary people who, in their determination to preserve the character of their ancient land, have organized an effective and still spreading country-wide resistance. The resistance of the Afghan freedom fighters is an example to all the world of the invincibility of the ideals we in this country hold most dear, the ideals of freedom and independence.

We must also recognize that the sacrifices required to maintain this resistance are very high. Millions have gone into exile as refugees. We will probably never know the numbers of people killed and maimed, poisoned and gassed, of the homes that have been destroyed, and of the lives that have been shattered and stricken with grief.

It is, therefore, incumbent upon us as Americans to reflect on the events in Afghanistan, to think about the agony which these brave people bear, and to maintain our condemnation of the continuing Soviet occupation. Our observance again this year of Afghanistan Day on March 21, the Afghan New Year, will recall for all the world America's unflagging sympathy for a determined people, its support for their refugees and commitment to achieving a political settlement for Afghanistan which will free that country from tyranny's yoke.

The Congress, by Senate Joint Resolution 65, has designated March 21, 1983 as "Afghanistan Day" and has requested the President to issue a proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate March 21, 1983 as Afghanistan Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-8010
Filed 3-24-83; 3:10 pm]
Billing code 3195-01-M

Editorial Note: For a statement by the President, dated Mar. 21, 1983, on signing Proclamation 5034, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 12).

Rules and Regulations

Federal Register
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Monday, March 28, 1983

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority; Assistant Secretary for Science and Education

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and General Officers of the Department to reflect the establishment of the position of Assistant Secretary for Science and Education. It also reflects the establishment of the Office of Grants and Programs Systems and the abolishment of the Science and Education Management Staff.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, United States Department of Agriculture, Washington, D.C. (202) 447-6035.

SUPPLEMENTARY INFORMATION: Section 1414 of the Agriculture and Food Act of 1981, Pub. L. 97-98, amended section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to provide for an additional Assistant Secretary of Agriculture who shall perform such duties as necessary to carry out the National Agricultural Research, Extension, and Teaching Policy Act of 1977. The Secretary of Agriculture has determined that the position should be designated as the Assistant Secretary for Science and Education. Accordingly, this document makes delegations of authority to the Assistant Secretary for Science and Education and from the Assistant Secretary to the heads of agencies that report to the Assistant Secretary.

In addition, to improve management efficiency, the Science and Education Management Staff has been abolished.

Further, the competitive grants administration function formerly performed by the Competitive Research Grants Office, Cooperative State Research Service, as well as management support services for discretionary grants administered by agencies reporting to the Assistant Secretary for Science and Education, formerly performed by the Science and Education Management Staff, are transferred to a new Office of Grants and Programs Systems.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart A—General

2. Section 2.4 is revised to read as follows:

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary who is assisted by the following general officers: the Deputy Secretary; the Under Secretary for International Affairs and Commodity Programs; the Under Secretary for Small Community and Rural Development; the Assistant Secretary for Natural Resources and Environment; the Assistant Secretary for Food and Consumer Services; the Assistant Secretary for Marketing and Inspection Services; the Assistant Secretary for Governmental and Public Affairs; the Assistant Secretary for Economics; the Assistant Secretary for Science and Education; the General Counsel; the Assistant Secretary for Administration; the Inspector General; the Judicial Officer; the Director, Office of Budget and Program Analysis; and the Executive Assistant to the Secretary.

3. Section 2.5 is amended by revising paragraph (b) to read as follows:

§ 2.5 Order in which Officers of the Department shall act as Secretary.

* * * * *

(b) In the case of the absence, sickness, resignation, or death of the Secretary, the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, and the Under Secretary for Small Community and Rural Development, the Assistant Secretary for Natural Resources and Environment, the Assistant Secretary for Food and Consumer Services, the Assistant Secretary for Marketing and Inspection Services, the Assistant Secretary for Governmental and Public Affairs, the Assistant Secretary for Economics, and the Assistant Secretary for Science and Education shall act as Secretary in the order in which they have taken office as an Assistant Secretary. In the event that any two or more Assistant Secretaries shall have taken office on the same date, they shall act as Secretary in the order in which they are listed herein.

* * * * *

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

4. New §§ 2.30 and 2.30a are added to read as follows:

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Science and Education:

(a) *Related to science and education.* (1) Provide national leadership and support for research, extension and teaching programs in the food and agricultural sciences to meet major needs and challenges in (i) food and agricultural system productivity, (ii) development of new food, fiber, and energy sources, (iii) agricultural energy use and production, (iv) natural resources, (v) promotion of the health and welfare of people, (vi) human nutrition, and (vii) international food and agriculture pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3121, 3124a).

(2) Coordinate USDA policy relative to Federal Insecticide, Fungicide, and Rodenticide Act and coordinate the Department's integrated pest management program and the pesticide assessment program (7 U.S.C. 136–136y).

(3) Carry out research, technology development, technology transfer, and demonstration projects related to the economic feasibility of the manufacture and commercialization of natural rubber from hydrocarbon-containing plants (7 U.S.C. 178–178n).

(4) Conduct research on the control of undesirable species of honey bees in cooperation with specific foreign governments (7 U.S.C. 284).

(5) Administer the appropriation for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts (7 U.S.C. 321–326a).

(6) Administer teaching funds authorized under section 22 of the Bankhead Jones Act, as amended (7 U.S.C. 329).

(7) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture, and home economics under the Smith-Lever Act, as amended (7 U.S.C. 341–349).

(8) Cooperate with the States for the purpose of encouraging and assisting them in carrying out research related to the problems of agriculture in its broadest aspects under the Hatch Act, as amended (7 U.S.C. 361–361i).

(9) Support agricultural research at eligible institutions in any State through Federal-grant funds to help finance physical facilities (7 U.S.C. 390–390k).

(10) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious, and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(11) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(12) Conduct research and demonstrations at Mandan, North Dakota, and Lewisburg, Tennessee, concerning dairy livestock breeding, growing, and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421–422).

(13) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423–424).

(14) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production, marketing (other than statistical and economic research but including research related to family use of resources), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animals both foreign and native, conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including the application of electricity and other forms of power and research and development related to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (7 U.S.C. 427, 2201, 2204).

(15) Conduct research on varietal improvement of wheat and feed grain to enhance their conservation and environmental qualities (7 U.S.C. 428b).

(16) Advance the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(17) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(18) Administer a program of competitive, special and facilities grants to State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations and individuals to promote research in food, agricultural and related areas (7 U.S.C. 450i).

(19) Conduct research related to soil and water conservation, engineering operations and methods of cultivation to provide for the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(20) Maintain four regional research laboratories and conduct research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts (7 U.S.C. 1292).

(21) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441-note).

(22) Conduct research, education, and demonstration work related to the distribution and marketing of agricultural products under the Agricultural Marketing Act of 1946, as amended, except as otherwise delegated in § 2.17(a)(2) and § 2.50(a)(2) (7 U.S.C. 1621–1627).

(23) Conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a)(4)).

(24) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(25) Develop and maintain library and information systems and networks and facilitate cooperation and coordination for the agricultural libraries or colleges, universities, Department of Agriculture, and their closely allied information gathering and dissemination units in close conjunction with private industry and other research libraries (7 U.S.C. 2201, 2204, 3126).

(26) Accept gifts and order disbursements from the Treasury for the benefit of the National Agricultural Library or for carrying out any of its functions (7 U.S.C. 2264–2265).

(27) Administer in cooperation with the States a cooperative rural development and small farm research and extension program under the Rural Development Act of 1972, as amended (7 U.S.C. 2261–2667).

(28) Administer a cooperative extension program under the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004).

(29) Conduct a program of grants to States to establish or expand schools of veterinary medicine (7 U.S.C. 3151).

(30) Administer higher education programs in the food and agricultural sciences as well as grants to colleges and universities (7 U.S.C. 3152).

(31) Administer the National Agricultural Science Award for research or advanced studies in the food and agricultural sciences (7 U.S.C. 3153).

(32) Make grants to colleges and universities for research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals and other products from coal derivatives (7 U.S.C. 3154).

(33) Administer a national food and human nutrition research and extension program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3171–3175, 3177).

(34) Administer an animal health and disease research program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3191–3193, 3195–3201).

(35) Support continuing agricultural and forestry extension and research at 1890 land-grant colleges including Tuskegee Institute (7 U.S.C. 3221, 3222).

(36) Support agricultural research at the 1890 land-grant colleges including Tuskegee Institute through Federal-grant funds to help finance physical facilities (7 U.S.C. 3223).

(37) Administer in relation to uses of solar energy (i) a competitive research grants program, (ii) a solar energy research information system, (iii) a cooperative program with the States on model farms and demonstration projects, and (iv) a program of research, extension and demonstration at regional and development centers (7 U.S.C. 3241, 3251, 3261–3263, 3271, 3281–3282).

(38) Cooperate and work with national and international institutions and other persons throughout the world in the performance of agricultural research and extension activities (7 U.S.C. 3291).

(39) Conduct program evaluations to improve the administration and effectiveness of agricultural research, extension, and teaching programs (7 U.S.C. 3317).

(40) Enter into contracts, grants, or cooperative agreements to further research, extension, or teaching programs in the food and agricultural sciences (7 U.S.C. 3318).

(41) Administer an aquaculture assistance program by (i) making grants to eligible institutions for research and extension to facilitate or expand production and marketing of aquaculture food species and products, (ii) making grants to States to formulate aquaculture development plans for the production and marketing of aquacultural species and products, and (iii) conducting a program of research, extension and demonstration at aquacultural demonstration centers (7 U.S.C. 3321–3324).

(42) Administer a cooperative rangeland research program (7 U.S.C. 3331–3336).

(43) Conduct a program of basic research on cancer in animals and birds (7 U.S.C. 3902).

(44) Coordinate Departmental policies under the Toxic Substances Control Act (15 U.S.C. 2601–2629).

(45) Conduct educational and demonstration work in cooperative farm forestry programs (16 U.S.C. 568).

(46) Cooperate with the States for the purpose of encouraging and assisting them in carrying out programs of forestry research (16 U.S.C. 582a–582a–7).

(47) Provide for an expanded and comprehensive extension program for forest and rangeland renewable resources (16 U.S.C. 1671–1676).

(48) Perform research, development and extension education in aquaculture (16 U.S.C. 2804, 2806).

(49) Copy and deliver on demand selected articles and other materials from its collections by photographic reproduction or other means within the permissions, constraints and limitations of Sections 106, 107, and 108 of the Copyright Act of October 19, 1976 (Title 17, U.S. Code).

(50) Authorize the use of the 4–H Club name and emblem (18 U.S.C. 707).

(51) Maintain a National Arboretum for the purpose of research and education concerning tree and plant life; accept and administer gifts or devices or real and personal property for the benefit of the National Arboretum; and order disbursements from the Treasury (20 U.S.C. 191–195).

(52) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 113a).

(53) Conduct research on control and eradication of cattle grubs (screwworms) (21 U.S.C. 114e).

(54) Conduct research demonstration, and promotion activities related to farm dwellings and other buildings for the purpose of reducing costs and adapting and developing fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(55) Conduct research on losses of livestock in interstate commerce due to injury or disease (45 U.S.C. 71-note).

(56) Administer the Virgin Islands agricultural research program (48 U.S.C. 1409m–o).

(57) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefore, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

(58) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture, and home economics in the District of Columbia (D.C. Code Section 31–1719).

(59) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting and evaluating extension programs under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(60) Exercise responsibilities of the Secretary under regulations dealing with Equal Employment Opportunity in the Cooperative Extension Service (Part 18 of this subtitle).

(61) Represent the Department on the Federal Interagency Council on Education.

(62) Assure the acquisition, preservation and accessibility of all information concerning food and agriculture by providing leadership to and coordination of the acquisition programs and related activities of the library and information systems, and the agencies of USDA, other Federal departments and agencies, State agricultural experiment stations, colleges and universities, and other research institutions and organizations.

(63) Formulate, write and/or prescribe bibliographic and technically related standards for the library and information service of USDA.

(64) Determine by survey and other appropriate means the information needs of the Department's scientific, professional, technical and administrative staffs, its constituencies and the general public in the areas of the food, agriculture, the environment, and solar energy.

(65) Represent the Department on all library and information science matters before Congressional Committees and appropriate commissions, and provide representation to the coordinating committees of the Federal and State governments concerned with library and information science activities.

(66) Represent the Department in international organization activities and on international technical committees concerned with library and information science activities.

(67) Prepare and disseminate computer bibliographic files, indexes and abstracts, bibliographies, reviews, and other analytical information tools.

(68) Arrange for the consolidated purchasing and dissemination of indexes, abstracts, journals and other widely used information publications and services.

(69) Provide assistance and support to professional organizations concerned with library and information science matters and issues.

(70) Pursuant to authority delegated by the Administrator of the General Services Administration to the Secretary of Agriculture in 34 FR 6406, 36 FR 1293, 36 FR 18440, and 38 FR 23838, appoint uniformed armed guards as special policemen, make all needful rules and regulations, and annex to such rules and regulations such reasonable penalties (not to exceed those prescribed in (40 U.S.C. 318c)), as will ensure their enforcement, for the protection of persons, property, buildings, and grounds of the Arboretum, Washington, D.C.; the U.S. Meat Animal Research Center, Clay Center, Nebraska; the Agricultural Research Center, Beltsville, Maryland, and the Animal Disease Center, Plum Island, New York, over which the United States has exclusive or concurrent criminal jurisdiction, in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, the Act of June 1, 1948 (62 Stat. 181), as amended, and policies, procedures and controls prescribed by the General Services Administration. Any rules or regulations promulgated under this authority shall be approved by the Director of the Office of Operations and the General Counsel prior to issuance.

(71) Control within the Department of Agriculture the acquisition, use and disposal of material and equipment which may be a source of ionizing radiation hazard.

(72) Responsible for representing the Department on the Federal Coordinating Council for Science, Engineering, and Technology.

(73) Administer the Department's Patent Program except as delegated to the General Counsel in § 2.31(g).

(74) Coordinate aquaculture responsibilities in the Department.

(b) *Related to committee management.* Establish and reestablish regional, state and local advisory committees for activities authorized. This authority may not be redelegated.

(c) *Related to defense.* Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*), and the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 *et seq.*) concerning scientific and educational programs.

(d) *Related to rural development activities.* Provide guidance and direction for the accomplishment of activities authorized under the Rural Development Act of 1972, as amended, for programs under the control of the Assistant Secretary for Science and Education, coordinating the policy aspects thereof with the Under Secretary for Small Community and Rural Development.

§ 2.30a Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) *Related to science and education.* (1) Withholding funds from States and sending notification thereof to the President in accordance with sections 5 and 6 of the Smith-Lever Act, as amended (7 U.S.C. 345–346), section 5 and 7 of the Hatch Act, as amended (7 U.S.C. 361 e.g. section 506 of the Rural Development Act of 1972, as amended (7 U.S.C. 2666), and section 1436, 1444, 1445, and 1468 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3198, 3221, 3222, and 3314).

(2) Reapportioning funds under section 4 and apportioning funds under section 5 of the act of October 10, 1962 (16 U.S.C. 582a–3, a–4).

(3) Appointing an advisory committee under section 6 of the act of October 10, 1962 (16 U.S.C. 582a–5).

(4) Final concurrence of Equal Employment Opportunity programs within the cooperative extension programs submitted under part 18 of this subtitle.

(5) Approving selection of State directors of extension.

(6) Approving the memoranda of understanding between land-grant universities and the Department of Agriculture related to cooperative extension programs.

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

§ 2.39 [Removed]

§ 2.40 [Removed]

5. Sections 2.39 and 2.40 are removed.

6. The heading for Subpart N is revised to read as follows:

Subpart N—Delegations of Authority From the Assistant Secretary for Science and Education

7. Section 2.105 is revised to read as follows:

§ 2.105 Deputy Assistant Secretary for Science and Education.

(a) *Delegations.* Pursuant to § 2.30 subject to reservations in § 2.30a, and subject to policy guidance and direction by the Assistant Secretary for Science and Education, the following delegation of authority is made by the Assistant Secretary for Science and Education to the Deputy Assistant Secretary for Science and Education, to be exercised only during the absence or unavailability of the Assistant Secretary: Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Assistant Secretary for Science and Education.

8. Section 2.106 is amended by revising the introductory text of paragraph (a), by revising paragraphs (a)(15) and (a)(17) and by adding paragraphs (a)(31) through (a)(44) to read as follows:

§ 2.106 Administrator, Agricultural Research Service.

(a) *Delegations.* Pursuant to § 2.30(a) and (c), subject to reservations in § 2.30a, the following delegations of authority are made by the Assistant Secretary for Science and Education to the Administrator, Agricultural Research Service:

* * * * *

(15) Administer a national food and human nutrition research program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C., 3171–3175, 3177).

* * * * *

(17) Maintain a National Arboretum for the purpose of research and education concerning tree and plant life; accept and administer gifts or devices of real and personal property for the benefit of the National Arboretum; and order disbursements for the Treasury (20 U.S.C. 191–195).

* * * * *

(31) Coordinate USDA policy relative to Federal Insecticide, Fungicide, and Rodenticide Act and coordinate the Department's integrated pest management programs and the pesticide assessment program (7 U.S.C. 136–136y).

(32) Conduct research related to the economic feasibility of the manufacture and commercialization of natural rubber from hydrocarbon-containing plants (7 U.S.C. 178–178n).

(33) Administer the appropriation for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts (7 U.S.C. 321–326a).

(34) Administer teaching funds authorized under section 22 of the Bankhead Jones Act, as amended (7 U.S.C. 329).

(35) Provide national leadership and support for research and education programs in the foods and agricultural sciences to meet major needs and challenges in (i) food and agricultural

system productivity, (ii) development of new food, fiber, and energy sources, (iii) agriculutural energy use and production, (iv) natural resources, (v) promotion of the health and welfare of people, (vi) human nutrition, and (vii) international food and agriculture pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3121, 3124a).

(36) Conduct a program of grants to States to establish or expand schools of veterinary medicine (7 U.S.C. 3151).

(37) Administer higher education programs in the food and agricultural sciences as well as grants to colleges and universities (7 U.S.C. 3152).

(38) Administer the National Agricultural Science Award for research or advance studies in the food and agricultural sciences (7 U.S.C. 3153).

(39) Conduct program evaluations to improve the administration and effectiveness of agricultural research and education programs (7 U.S.C. 3317).

(40) Enter into contracts, grants, or cooperative agreements to further research programs in the food and agricultural sciences (7 U.S.C. 3318).

(41) Perform research and development at aquacultural research and development centers (7 U.S.C. 3322, 3324).

(42) Coordinate Departmental policies under the Toxic Substances Control Act (15 U.S.C. 2601–2629).

(43) Represent the Department on the Federal Interagency Council on Education.

(44) Administer the Department's Patent Program except as delegated to the General Counsel in § 2.31(g).

§ 2.106 [Amended]

9. Section 2.106 is further amended by removing the term "Director of the Office of Operations and Finance" in paragraph (a)(26) and substituting in lieu thereof the term "Director, Office of Operations".

10. Section 2.107 is amended by revising the introductory text of paragraph (a), by revising paragraphs (a)(4) and (a)(6) and by adding paragraphs (a)(14) through (a)(22) to read as follows:

§ 2.107 Administrator, Cooperative State Research Service.

(a) *Delegations.* Pursuant to § 2.30 (a) and (c), subject to reservations in § 2.30a, the following delegations of authority are made by the Assistant Secretary for Science and Education to the Administrator, Cooperative State Research Service:

* * * * *

(4) Administer in cooperation with the States a cooperative rural development and small farm research program under the Rural Development Act of 1972, as amended (7 U.S.C. 2661–2667).

* * * * *

(6) Conduct a program of grants to states to support continuing animal health and disease research programs under the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3191–3193, 3195–3201).

* * * * *

(14) Administer research and technology development grants related to the economic feasibility of the manufacture and commercialization of natural rubber from hydrocarbon-containing plants (7 U.S.C. 178–178n).

(15) Administer research grants related to tropical and subtropical agriculture (7 US.C. 1736(a)(4)).

(16) Provide national leadership and support for cooperative research programs in the food and agricultural sciences to meet major needs and challenges in (i) food and agricultural system productivity, (ii) development of new food, fiber, and energy sources, (iii) agricultural energy use and production, (iv) natural resources, (v) promotion of the health and welfare of people, (vi) human nutrition, and (vii) international food and agriculture pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3121, 3124a).

(17) Support agricultural research at the 1890 land-grant colleges including Tuskegee Institute through Federal grant funds to help finance physical facilities (7 U.S.C. 3223).

(18) Conduct program evaluations to improve the administration and effectiveness of the cooperative research grants program involving colleges, universities, and other organizations and institutions (7 U.S.C. 3317).

(19) Enter into contracts, grants, or cooperative agreements to further research programs in the food and agricultural sciences (7 U.S.C. 3318).

(20) Administer an aquacultural assistance program by (i) making grants to eligible institutions for research to facilitate or expand production and marketing of aquaculture food species and products, and (ii) making grants to States to formulate aquaculture development plans for the production and marketing of aquaculture species and products (7 U.S.C. 3322, 3324).

(21) Administer a cooperative rangeland research program (7 U.S.C. 3331–3336).

(22) Coordinate aquaculture responsibilities in the Department.

11. Section 2.108 is amended by revising the introductory text of paragraph (a), by revising paragraphs (a)(4), (a)(6) and (a)(11) and by adding paragraphs (a)(18) through (a)(21) to read as follows:

§ 2.108 Administrator, Extension Service.

(a) *Delegations.* Pursuant to § 2.30 (a) and (c), subject to reservations in § 2.30a, the following delegations of authority are made by the Assistant Secretary for Science and Education to the Administrator, Extension Service:

* * * * *

(4) Administer in cooperation with the States a cooperative rural development and small farm extension program under the Rural Development Act of 1972, as amended (7 U.S.C. 2661–2667).

* * * * *

(6) Administer a national food and human nutrition extension program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3171–3177).

* * * * *

(11) Provide for an expanded and comprehensive extension program for forest and rangeland renewable resources (16 U.S.C. 1671–1676).

* * * * *

(18) Provide national leadership and support for cooperative extension programs in the food and agricultural sciences to meet the needs and challenges in (i) food and agricultural system productivity, (ii) development of new food, fiber, and energy sources, (iii) agricultural energy use and production, (iv) natural resources, (v) promotion of the health and welfare of people, (vi) human nutrition, and (vii) international food and agriculture pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3121, 3124a).

(19) Conduct program evaluations to improve the administration and effectiveness of the cooperative extension programs involving colleges, universities, and other organizations and institutions (7 U.S.C. 3317).

(20) Enter into contracts, grants, or cooperative agreements to further extension programs in the food and agricultural sciences (7 U.S.C. 3318).

(21) Administer an aquaculture assistance program by (i) supporting eligible institutions for extension to facilitate or expand production and marketing of aquaculture food species and products, and (ii) conducting a program of extension and demonstration at aquacultural demonstration centers (7 U.S.C. 3322, 3324).

12. Section 2.109 is amended by revising the introductory text of paragraph (a) and by adding paragraphs (a)(12) through (a)(14) to read as follows:

§ 2.109 Director, National Agricultural Library.

(a) *Delegations.* Pursuant to § 2.30(a), subject to reservations in § 2.30a, the following delegations of authority are made by the Assistant Secretary for Science and Education to the Director, National Agricultural Library:

* * * * *

(12) Provide national leadership in the development and maintenance of library and related information systems to support the research, extension, and teaching programs in the food and agricultural sciences pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3121, 3124a).

(13) Conduct program evaluations to improve the administration and effectiveness of the library and related information systems in the food and agricultural sciences (7 U.S.C. 3317).

(14) Enter into contracts, grants, or cooperative agreements to further library and related information programs supporting research, extension, and teaching programs in the food and agricultural sciences (7 U.S.C. 3318).

13. Section 2.110 is revised to read as follows:

§ 2.110 Director, Office of Grants and Programs Systems.

(a) *Delegations.* Pursuant to § 2.30(a), subject to reservations in § 2.30a, the following delegations of authority are made by the Assistant Secretary for Science and Education to the Director, Office of Grants and Programs Systems:

(1) Participate with agencies reporting to the Assistant Secretary for Science and Education in the administration of competitive grants to State agricultural experiment stations, colleges and universities, other research institutes and organizations, Federal agencies, private organizations or corporations and individuals to promote research in food, agricultural and related areas (7 U.S.C. 450i).

(2) Participate with agencies reporting to the Assistant Secretary for Science and Education in the administration of competitive grants (i) to develop or administer programs to meet unique food and agricultural educational problems, and (ii) to administer and conduct specialized programs to attract individuals for undergraduate and graduate programs and to administer and conduct graduate fellowship programs in the food and agricultural sciences (7 U.S.C. 3152).

(3) Participate with agencies reporting to the Assistant Secretary for Science and Education in the administration of competitive research grants related to uses of solar energy (7 U.S.C. 3241).

(4) Provide management support services to agencies reporting to the Assistant Secretary for Science and Education in the administration of discretionary grants.

Dated: March 23, 1983.
For Subparts A, C, and D.

John R. Block,
Secretary of Agriculture.

For Subpart N.

Orville G. Bentley,
Assistant Secretary for Science and Education.

[FR Doc. 83-7918 Filed 3-25-83; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 58

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products

Correction

In FR Doc. 83-6514 beginning on page 10607 in the issue of Monday, March 14, 1983, make the following correction:

In § 58.2707(c), second line from the top of the center column of page 10609, "0-15 percent" should have read "0.15 percent".

BILLING CODE 1505-01-M

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. 83-007]

Viruses, Serums, Toxins, and Analogous Products; Revision of Packaging Requirements for Biological Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This change revises the packaging requirements for poultry biologics. The revision deletes the existing 10 final containers per carton limit for poultry products and deletes any requirement that diluent for poultry products be packaged with the final container(s). The current regulation is further amended to include both mass administration and automatic vaccinating systems as methods of delivery for poultry biologics.

Average poultry flock size has increased 5 to 10 times since the 10 final containers per carton limit was established. The deletion of the number of containers per carton for these products will make them more convenient and economical to use in larger flocks than presently permitted by the 10 container per carton limit. Deleting the requirement that diluent be packaged with the vaccine will permit manufacturers and users to make more efficient use of refrigeration space since diluent may be stored at room temperature. Automatic vaccinating systems permit the vaccination of large numbers of individual birds in a relatively short period of time so that reconstituted vaccine does not lose potency before being used.

EFFECTIVE DATE: This amendment becomes effective March 22, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Chief Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Non-major Rule."

The final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets. These revisions will reduce regulatory requirements.

Certification Under the Regulatory Flexibility Act

Mr. James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has

determined that this action will not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing. This action will be beneficial to manufacturers of poultry biologics by relaxing certain current restrictions on dose size, number of containers per carton, packaging diluent with the vaccine and by distinguishing between mass administration by aerosol, spray, or drinking water, and vaccinating large numbers of birds with the use of automatic vaccinating systems.

Background

On September 14, 1981, a notice of proposed rulemaking was published in the **Federal Register** at 46 FR 45616, discussing revisions to 9 CFR 112.6 and soliciting comments. During the comment period some of the manufacturers and manufacturers' trade associations recommended, in addition to the Veterinary Services' proposals, that the regulations be further amended to delete the existing limit of 10 final containers per carton for poultry products and to delete any requirement that diluent for poultry products be packaged with the final container(s) of the product. They also recommended that the proposed rulemaking be changed to include the use of automatic vaccinating equipment in the definition of mass administration of biological products for poultry. Since these recommendations would involve major changes, it was decided to go forward with a final rulemaking as originally proposed and to publish an additional proposed rulemaking which would incorporate these recommendations. Concerned parties are invited to review the final rulemaking published in the **Federal Register** at 47 FR 8759 for details.

Comments Received

The recommendations for additional changes were favorably considered by the Agency and, accordingly, on August 11, 1982, a notice of proposed rulemaking incorporating them was published in the **Federal Register** at 47 FR 34794 discussing this revision and soliciting comments. Only one response was received which questioned the definition of the terms mass administration, automatic vaccinating equipment, and manual administration as used in the proposed rulemaking. Section 112.6(c) of the proposed rulemaking included automatic vaccinating equipment as a method of mass administration. It was intended that mass administation would include the delivery of the vaccine to large numbers of birds simultaneously as occurs with aerosol, spray, and drinking water routes of administration. The term automatic vaccinating equipment was intended to include the use of systems which would deliver the vaccine to a large number of individual birds in a relatively short period of time so that reconstituted vaccine would not lose potency before being used. In order to further clarify this intent, 9 CFR 112.6(c) is changed to read "Poultry products for mass administration (including but not limited to administration through drinking water and spray) and products used in automatic vaccinating systems (including but not limited to pneumatic beak injectors and automated needle injectors) may be packaged in multiple-dose final containers as specified in the filed Outline of Production." In this change the Agency recognizes the economic advantage and convenience of large dose vials to the users and to the producers of poultry vaccines.

After due consideration of all relevant matters, including the proposal set forth with changes in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 112, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects in 9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and Containers, Transporation.

PART 112—PACKAGING AND LABELING

Section 112.6 is amended by revising paragraph (c) to read as follows:

§ 112.6 Packaging biological products.

* * * * *

(c) Poultry products for mass administration (including but not limited to administration through drinking water and spray) and products used in automatic vaccinating systems (including but not limited to pneumatic beak injectors and automated needle injectors) may be packaged in multiple-dose final containers as specified in the filed Outline of Production. Poultry products for manual administration to individual birds shall not exceed 1,000 doses in each final container. Diluent need not be packaged with the final container(s) of the product, but the licensee shall provide the required number of containers of diluent as specified in the filed Outline of Production. The following requirements apply to cartons containing more then one final container of poultry product:

(1) They shall be sealed prior to leaving the licensed establishment.

(2) The contents may not be repackaged.

(3) The contents of such cartons may not be sold in fractional units.

(4) The following statement must appear in a prominent place on the carton label: "Federal regulations prohibit the repackaging or sale of the contents of this carton in fractional units. Do not accept if seal is broken."

(37 Stat. 832–833 (21 U.S.C. 151–158))

* * * * *

Done at Washington, D.C., this 22nd day of March 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-7856 Filed 3-25-83; 8:45 am]

BILING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-18-AD; Amdt. 39-4593]

Airworthiness Directives; British Aerospace, Aircraft Group, Scottish Division, Model B.121, Series 1, 2, and 3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace, Aircraft Group, Scottish Division, Model B.121, Series 1, 2, and 3 airplanes which requires initial and repetitive visual inspections of the rudder control lever assembly. Reports of cracks and three failures of this assembly, located at Fuselage Station 217.75, have been received. These inspections will preclude any such cracks progressing to failure without being detected.

DATES: Effective date April 4, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: Scottish Aviation Ltd., Service Bulletin No. B.121/71, dated December 29, 1976, applicable to this AD may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room

1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Paul Cormaci, Federal Aviation Administration, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: British Aerospace, Aircraft Group, Scottish Division, has received reports of cracking and failures of the Part No. BE.45.10193 Control Lever Assembly at Fuselage Station 217.75 on their Model B.121, Series 1, 2, and 3 airplanes. As a result, British Aerospace, Aircraft Group, Scottish Division has issued mandatory Service Bulletin No. B.121/71 dated December 29, 1976, which recommends visual inspection of the rudder control lever assembly at Fuselage Station 217.75, within 50 hours time-in-service, to determine its part number. If the Part No. BE.45.50107 Rudder Control Lever Assembly is determined to be installed, no further action is recommended. If such determination cannot be made or if the Part No. BE.45.10193 Rudder Control Level Assembly is installed, it must be inspected for possible cracking within 50 hours time-in-service and at intervals thereafter not exceeding 50 hours time-in-service. The United Kingdom Civil Aviation Authority, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under the United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the United Kingdom Civil Aviation Authority combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Service Bulletin No. B.121/71 dated December 29, 1976, and the mandatory classification of this Service Bulletin by the United Kingdom Civil Aviation Authority.

Based on the foregoing, the FAA has determined that the condition addressed by Service Bulletin B.121/71 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring initial and repetitive visual inspections of the Part No. BE.45.10193 Rudder Control Level Assembly on British Aerospace, Aircraft Group, Scottish Division, Model B.121, Series 1, 2, and 3 airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

British Aerospace, Aircraft Group, Scottish Division: Applies to Model B.121, Series 1, 2, and 3 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To preclude failure of the Part Number BE.45.10193 Rudder Control Lever Assembly (or Assembly not indentified by visual examination as Part Number BE.45.50107) located at Fuselage Station 217.75, within 50 hours time-in-service after the effective date of this AD and thereafter at intervals not to exceed 50 hours time-in-service from the last inspection, accomplish the following:

(a) Visually inspect the Rudder Control Lever Assembly at Fuselage Station 217.75, to determine its part number.

(b) If Part Number BE.45.50107 is determined to be installed, no further action is required.

(c) If the part number cannot be determined, or is found to be number BE.45.10193, remove the Rudder Control Lever Assembly and inspect it using visual and dye penetrant procedures in accordance with Scottish Aviation Ltd., Service Bulletin No. B.121/71 dated December 29, 1976. Particular attention should be paid to areas near welds at the bases of all three levers.

(d) If a crack is found in the Rudder Control Lever Assembly, replace it with a Part Number BE.45.50107 Rudder Control Lever Assembly before further flight.

(e) The installation of a Part Number BE.45.50107 Rudder Control Lever Assembly constitutes termination action for this AD.

(f) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(g) Operators who have not kept records of hours time-in-service of the rudder control lever must substitute airplane hours time-in-service in lieu thereof.

(h) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(i) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This amendment becomes effective on April 4, 1983.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on March 15, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-7850 Filed 3-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-27-AD; Amdt. 39-4597]

Airworthiness Directives; SIAI-Marchetti, Models F260, F260B, and F260C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to SIAI-Marchetti Models F260, F260B and F260C airplanes. It

requires visual inspection of the relief valve springs in certain type governors and possible replacement of same and eventual mandatory replacement of the valve body. Instances of spring breakage have been reported to the manufacturer. The inspection procedures will detect spring breakage so that replacement parts can be installed to prevent a temporary lowering of the oil pressure in the system which may cause propeller overspeed and possible loss of the propeller.

DATES: Effective date: April 7, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: SIAI-Marchetti Service Bulletin (SB) No. 260B35, dated March 5, 1982, applicable to this AD may be obtained from SIAI-Marchetti S.p.A., V-12070 via Indipendenza, 2, 21018 Sesto Calende, Italy, whose telephone number is 0331 924842/923598. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Mr. P. Cormaci, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106 Telephone 816/374-6932.

SUPPLEMENTARY INFORMATION: SIAI-Marchetti has received reports of spring breakage in the relief valve on certain type governors in its Models F260, F260B and F260C airplanes. This may cause a temporary lowering of oil pressure in the system which may result in harmful overspeed of the propeller. Undetected spring breakage in the governor relief valve could result in failure of the propeller and/or engine. As a consequence, SIAI-Marchetti has issued SB No. 260B35, dated March 5, 1982, which provides for inspection of the relief valve springs of certain type governors, replacement of springs which are cracked or broken and mandatory replacement of the valve body either within 500 hours from the effective date of this AD or when the propeller overhaul is accomplished. Also periodic inspections are required every 100 hours time-in-service for valve bodies with rectangular ports and every 500 hours time-in-service for valve bodies with round ports. The Registro Aeronautico Italiano (RAI) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy has classified this SB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of SB No. 260B35, dated March 5, 1982, and the mandatory classification of this SB by the RAI.

Based on the foregoing, the FAA has determined that the condition addressed by SB No. 260B35, dated March 5, 1982, is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring initial and periodic visual inspections of the relief valve springs in certain type governors and possible replacement of same and eventual mandatory replacement of the valve body on SIAI-Marchetti Models F260, F260B and F260C airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 3913 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

SIAI-Marchetti: applies to Models F260, F260B and F260C airplanes certificated in any category that are equipped with one of the following propeller governor Part Numbers (PN):

Hartzell PN	Equivalent SIAI PN
F4-4A	260-13-272-01
F4-4A(F4-11)	260-13-272-05
F4-112	260-13-272-03
F6-15A	260-13-272-07
F4-4A	260-13-272-09

Compliance: Required as indicated, unless already accomplished. To preclude failure of the propeller governor relief valve spring and possible propeller overspeed, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this Airworthiness Directive (AD), and thereafter at each 100 hour time-in-service interval on propeller governors with a relief valve body which has a rectangular port and within the next 500 hours time-in-service from the effective date of this AD and thereafter at each 500 hour time-in-service interval, on propeller governors with a relief valve body which has a round port, accomplish the following:

(1) Visually inspect the governor's relief valve spring PN-A-3107 for cracks or breakage in accordance with the "INSTRUCTIONS" section of the manufacturer's Service Bulletin (SB) No. 260B35, dated March 5, 1982, hereinafter referred to as the SB.

(*i*) If the relief valve spring is cracked or broken, prior to futher flight, repair and bench test the propeller governor assembly at SIAI-Marchetti or at an FAA approved Hartzell propeller governor overhaul repair station. (This requirement is necessary because the relief valve spring will require an adjustment to regulate the oil pressure to a range within factory tolerances.)

(*ii*) If the spring is not cracked or broken, reinstall the relief valve spring and return the airplane to service and continue the repetitive inspections as prescribed in paragraph (a) of this AD.

(b) Within the next 500 hours time-in-service after the effective date of this AD or at the time of the next propeller overhaul, whichever occurs first, replace those propeller governor relief valve bodies (Part Number (PN) A-3173) having rectangular ports with relief valve bodies (PN A-3173) having round ports as shown in Fig. No. 2 of the SB and continue the repetitive inspections of paragraph (a) of this AD.

Note.—It is not necessary to send the propeller governor to the test bench to change the valve body unless the relief valve spring is changed. SIAI-Marchetti or the FAA approved Hartzell propeller governor certified overhaul repair station provides the inspection and modification indentification of all governor assemblies installed on airplanes or supplied as spare parts. Modified governors with the new relief valve body with round ports will be identified by a printed "X" with indelible ink on the data plate.

(c) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(d) Operators who have not kept records of hours time-in-service of the propeller governor relief valve body type must substitute airplane hours time-in-service in lieu thereof.

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

(f) An equivalent method of compliance with this AD is used must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This amendment becomes effective on April 7, 1983.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on March 17, 1983.

John E. Shaw,

Acting Director, Central Region

[FR Doc. 83-7854 Filed 3-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-20-AD; Amdt. 39-4595]

Airworthiness Directives; Short Brothers & Harland Ltd., Model SC 7, Series 3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Short Brothers & Harland Ltd., Model SC 7, Series 3 airplanes which requires periodic dye penetrant inspection and replacement of the main landing gear brake flanges. A brake flange failed on an aircraft during landing due to fatigue cracks allowing the brake unit to rotate with subsequent loss of both main and emergency brake systems. The inspections and replacement required by this AD will prevent loss of both main and emergency brake systems.

DATES: Effective date: April 4, 1983. Compliance: as prescribed in the body of the AD.

ADDRESSES: Dowty Rotol Service Bulletin No. 32-10M, Revision 1, dated February 17, 1982, applicable to this AD may be obtained from Dowty Rotol, Inc., Dowty Group Ltd., Box 5000, Sully Road, Sterling, Virginia 22170. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Paul Cormaci, Federal Aviation Administration, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: The manufacturer has determined that the main landing gear brake flanges (Part No. EH183134 or Part No. EH183712) develop fatigue cracks on its Model SC 7, Series 3 airplanes. In one instance, the brake lines were damaged with loss of both the main and emergency brake systems. As a result, Dowty Rotol has issued Service Bulletin No. 32-10M, Rev. 1, which provides for periodic dye penetrant inspection and replacement of the main landing gear brake flanges. The Civil Aviation Authority (CAA) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom (U.K.) has classified this Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under U.K. registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA combined with the FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States

The FAA has examined the available information related to the issuance of Service Bulletin No. 32-10M, Rev. 1, dated February 17, 1982, and the mandatory classification of this Bulletin by the CAA.

Based on the foregoing, the FAA has determined that the condition addressed by Service Bulletin No. 32-10M, Rev. 1, is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring periodic dye penetrant inspection and replacement of the main landing gear brake flanges on Short Brothers & Harland Ltd., Model SC 7, Series 3 airplanes in accordance with procedures set forth in the above-mentioned SB.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

Short Brothers and Harland Ltd.: Applies to Model SC 7, Series 3 airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of a main landing gear brake flange and subsequent loss of both main and emergency brake systems, accomplish the following:

(a) Within the next 200 landings after the effective date of this AD for airplanes equipped with brake flange Part No. EH183134 and having 5,000 or more landings in service or for airplanes equipped with brake flange Part No. EH183712 and having 1,000 or more landings in service, perform a dye penetrant inspection of the main landing gear brake flanges as instructed in paragraph 2 of Dowty Rotol Service Bulletin No. 32-10M, Rev. 1, dated February 17, 1982.

(1) If no cracks are found, return the airplane to service.

(2) If cracks are found, prior to further flight, replace the brake flange with a serviceable unit of the same part number.

(b) Repeat the inspection of paragraph (a) above at 1,000 landing intervals. When the brake flange is replaced, these repeated inspections may be discontinued until the newly installed brake flange has accumulated the total number of landings as prescribed in paragraph (a) above.

(c) Operators who have not kept records of total landings in service may convert airplane hours time-in-service to total landings in service at the rate of two landings per hour.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these

inspections concurrent with other scheduled maintenance of the airplane.

(e) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(f) An equivalent method of compliance with this AD if used must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This amendment becomes effective on April 4, 1983.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on March 15, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-7852 Filed 3-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-17-AD; Amt. 39-4594]

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC Model PZL M18 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC, Model PZL M18 airplanes. It requires visual inspection and as necessary, repair or replacement of the rudder. The manufacturer has received several reports of skin cracks in the forward and trailing edges of the rudder. Continued propagation of these cracks could damage the spar or rudder attachment hinge with resultant loss of primary flight control about the airplane's yaw axis. The inspections and repairs required by this AD will prevent loss of primary flight control about the yaw axis.

DATES: Effective date: April 4, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Wytwornia Sprzetu Komunikacyjnego Mandatory Bulletin Nos. S/025/81 and R/028/81 applicable to this AD may be obtained from Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC, 39-301 Mielec, Poland. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Mr. P. Cormaci, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: The manufacturer has received several reports of skin cracks on the forward and trailing edges of the rudder on its Model PZL M18 airplanes. These cracks may propagate to the structural and attaching members of the rudder resulting in partial or complete failure of the rudder. Failure of the rudder causes loss of primary flight control about the yaw axis and could affect flight control about the other two axes depending upon the extent and configuration of the damaged rudder. As a result, Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC has issued Mandatory Bulletin Nos. S/025/81 and R/028/81 which provide for inspection and repair or replacement of the rudder. The Civil Aircraft Inspection Board (CACA) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Poland has classified this Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CACA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Mandatory Bulletin Nos. S/025/81 and R/028/81 and the mandatory classification of these Bulletins by CACA.

Based on the foregoing, the FAA has determined that the condition addressed by Mandatory Bulletin Nos. S/025/81 and R/028/81 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring visual inspection and if necessary, repair or replacement of the rudder on PZL M18 airplanes in accordance with procedures set forth in the above mentioned Mandatory Bulletins.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation regulations (14 CFR 39.13) is amended by adding the following new AD.

Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC:

Applies to Model PZL M18, (all Serial Numbers through 1Z007-25) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent loss of primary flight control about the yaw axis, accomplish the following:

(a) Before the first flight of each day, visually check the rudder skin for cracks along the trailing edge. This check may be performed by the pilot.

(1) If no cracks are found the airplane may be placed in service.

(2) If cracks are found prior to further flight conduct the inspections of paragraph (b).

(b) Within 25 hours time-in-service after the effective date of this Airworthiness Directive (AD) and at 50 hours time-in-service intervals thereafter, using a 5-power magnifying glass inspect the rudder on both sides in the upper hinge area and along the trailing edge.

(1) If no cracks are detected, return the aircraft to service.

(2) If cracks are detected, remove the rudder and accomplish repairs as prescribed in paragraph III of Bulletin R/028/81.

(c) The intervals between the repetitive inspections required by this AD may be

adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(d) Aircraft may be flown in accordance with FAR 21.197 to a location where this Airworthiness Directive (AD) can be accomplished.

(e) An equivalent method of compliance with this AD if used must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This amendment becomes effective on April 4, 1983.

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

Note: The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City Missouri, on March 15, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-7851 Filed 3-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-13-AD; Amt. 39-4596]

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC, Model PZL M18, Dromader Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC M18, Dromader airplanes. It requires installation of non-return (check) valves in the fuel lines and individual fuel gauges for each tank group, inspection and if necessary modification of engine controls to assure clearance, and replacement of butterfly nut, Part No. (P/N) 1414s49-8-ka on the sunlight filter. There have been two incidents of inflight engine failures due to fuel transfer between tanks while maneuvering and one report of interference between the propeller governor push rod and engine power controls. The inspection and modifications required by this AD will prevent inflight engine failure due to unmonitored fuel transfer between tanks, limitation of power controls due to linkage interference and eliminate a possible source of head injury to the pilot during a crash or hard landing.

DATES: Effective date April 4, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC Mandatory Bulletin No. I/009/81 with ERRATA sheet applicable to this AD may be obtained from Wytwornia Sprzetu Komunikacyjnego, "PZL-MIELEC", 39-301 Mielec, Poland. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.20, or Mr. P. Cormaci, Manager, Foreign FAR 23 Section, ACE-109, Central Region, FAA, 601 East 12th Street, Kansas City, MO 64106. Telephone 816/374-6932.

SUPPLEMENTARY INFORMATION: Two Dromader, Model PZL M18 airplanes have made emergency landings when their engines failed in flight due to lack of fuel supply. These accidents were caused by fuel transfer from one wing to the other during flight with one wing low. To eliminate unmonitored transfer of fuel between wing tank groups the manufacturer has provided a modification which entails installation of non-return (check) valves between the header tank and each wing tank group. This modification also adds a fuel gauge so that fuel quantity available in each tank group may be monitored separately. As a result of an operator report that the push rod in the propeller pitch governor control system rubs against carburetor control linkages causing their displacement, the manufacturer has provided for inspection and modification of the engine controls to eliminate displacement and possible limitation of engine power control. Separate from the above problems, the butterfly nut used to adjust the overhead sunlight filter protrudes into the cockpit and could cause head injury during a hard landing or crash. The manufacturer has provided a modification to replace this nut with a ball knob which would reduce the possibility of pilot head injury under these conditions. Wytwornia Sprzetu Komunikacyjnego, published these inspections and modifications as part of Mandatory Bulletin No. I/009/81 with ERRATA sheet. The Civil Aircraft Inspection Board (CACA) who has reponsibility and authority to maintain the continuing airworthiness of these airplanes in Poland has classified this Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of CACA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Mandatory Bulletin No. I/009/81 with ERRATA sheet and the mandatory classification of this Bulletin by CACA.

Based on the foregoing, the FAA has determined that certain of the conditions addressed by Mandatory Bulletion No. I/009/81 with ERRATA sheet are unsafe conditions that may exist or develop on other products of the same type design certificated for operation in the United States. Therefore, an AD is being issued requiring inspections and modifications on Wytwornia Sprzetu Komunikacyjnego, PZL-MIELEC, Model PZL M18 airplanes in accordance with procedures set forth in the above mentioned Bulletin.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Lisat of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation

Regulations (14 CFR 39.13) is amended by adding the following new AD.

Wytwornia Sprzetu Komunikacyjengo, PZL-MIELEC: Applies to Model PZL M18 (Serial Nos. 1Z001-01 through 1Z001-05, 1Z001-08 through 1Z001-10, 1Z002-01 through 1Z002-05, 1Z003-01, through 1Z003-10, 1Z004-01 through 1Z004-10, and 1Z005-01 through 1Z005-14) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. Within the next 50 hours time-in-service after the effective date of this AD accomplish the following:

(a) To prevent inflight engine shutdown due to unmonitored fuel transfer between tanks, install non-return (check) valves Part Number (P/N) D61.170.00.G, install a second fuel quantity gauge, P/N 64126 or 6246-8, and install fuel filler placards in accordance with procedures III. A., III. B. and III. H. of Mandatory Bulletin I/009/81 and ERRATA sheet.

NOTE: The modifications required by paragraph (a) have been accomplished by the manufacturer on aircraft Serial Numbers 1Z001-02, 1Z004-02, 1Z004-05, 1Z004-06 and 1Z004-10.

(b) To eliminate mechanical linkage interference in the power controls, inspect the support tube (P/N D65.250.00.2) installation to assure that the propeller governor push rod to carburetor orifice and carburetor (R.P.M.) adjustment levers clearance is as prescribed in procedures III. D. Mandatory Bulletin I/009/81. If clearance is insufficient, readjust support tube and modify the carburetor orifice as prescribed to meet the clearances specified in procedures III. D.

(c) To eliminate a possible source of head injury to the pilot during a hard landing, replace the sunlight filter position adjustment butterfly nut, P/N 1414s49-8-ka, with ball knob, P/N D74.280.00.0 as prescribed in procedures III. F. of Mandatory Bulletin I/009/81.

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

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, c/o American Embassy, 1000 Brussels, Belgium.

This amendment becomes effective on April 4, 1983.

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

Note: The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation inder DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as approporiate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on March 15, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-7853 Filed 3-25-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 33-6441A, 34-19290A, 40-12865A, File No. S7-939]

Disclosure of Certain Relationships and Transactions Involving Management; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rules; correction.

SUMMARY: This document corrects a final rule amendment, concerning disclosure of directors and nominees for director, that was made in connection with the adoption of new Item 404 of Regulation S-K regarding management relationships and transactions. The amendment appeared at page 55668 of the **Federal Register** on Monday, December 13, 1982, FR Doc. 82-33628. This action is necessary to correct the amendatory language to conform with changes in the text of the Regulation.

DATES: Item 404 and the coordinating amendments are effective for all documents filed on or after July 1, 1983. Registrants, however, may comply with the provisions prior to that date if they comply with all applicable provisions upon the election to do so and in any subsequent filings.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, contact Susan P. Davis, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. After the effective date, contact John J. Gorman, (202) 272-2573, Office of Chief Counsel, Divison of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On page 55668, column one, the amendatory language for number 7 is corrected to read as follows:

"7. By removing paragraphs (b)(3) through (b)(7) and the note to paragraph (b)(7) and by revising the introductory text and paragraphs (b)(1) and (b)(2) of Item 6 of § 240.14a-101 to read as follows:".

Dated: March 22, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7878 Filed 3-25-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978; OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION: Issued: March 22, 1983.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the

Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of April 1983 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar Year 1981												
Incremental Pricing Threshold	$1.891	$1.908	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA Section 102 Threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130% of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar Year 1982												
Incremental Pricing Threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113	$2.120	$2.129	$2.139	$2.149	$2.159	$2.169
NGPA Section 102 Threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.249	3.274
NGPA Section 109 Threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224	2.234	2.244
130% of No. 2 Fuel Oil in New York City Threshold	9.180	9.340	9.470	9.340	9.280	8.000	8.170	8.870	8.660	8.950	8.640	8.880
Calendar Year 1983												
Incremental Pricing Threshold	$2.179	$2.187	$2.195	$2.203								
NGPA Section 102 Threshold	3.299	3.321	3.344	3.367								
NGPA Section 109 Threshold	2.254	2.262	2.270	2.278								
130% of No. 2 Fuel Oil in New York City Threshold	9.420	9.320	8.820	8.120								

[FR Doc. 83-7786 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 880, 881, 883, 884 and 886

[Docket No. R-83-1040]

Section 8 Housing Assistance Payments Programs for New Construction and Substantial Rehabilitation

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule implements certain provisions in the Housing and Community Development Amendments of 1981 which change the Section 8 Housing Assistance Payments Programs for New Construction and Substantial Rehabilitation. This rule (1) extends assistance to substantially rehabilitated single-room occupancy (SRO) housing, (2) provides assistance for a family residing in a manufactured home (space rental or rental of space and manufactured home), (3) provides for limitations on cost and rent increases after selection of a Section 8 new construction or substantial rehabilitation proposal, (4) states new requirements to the effect that Section 8 new construction must be modestly designed, and (5) establishes a preference for locating Section 8 new construction projects on land provided by States or units of local government. The rule also provides for a minimum contract term of 20 years for Section 8, new or substantially rehabilitated housing assistance payments contracts.

DATES: Effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, but not before further notice of the effective date is published in the **Federal Register.**

Comment due date: May 27, 1983.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commenter's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Director, Office of Multifamily Housing Development, Telephone: (202) 755-5720 or (with respect to Part 883) Steven Silvert, Acting Director, Office of State Agency and Bond Financed Programs, Telephone: (202) 755-8135. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The major amendments implemented in this rule were included in the Housing and Community Development (HCD) Amendments of 1981 (Title III, Subtitle A, Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35)).

Single-Room Occupancy (SRO) Housing

Section 324(3) of the HCD Amendments of 1981 added a new section 8(n) to the U.S. Housing Act of 1937 expressly authorizing the Secretary of HUD to provide Section 8 assistance for substantially or moderately rehabilitated single-room occupancy (SRO) housing (i.e., residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities). This authority can only be used if (a) the housing is located in an area in which there is a significant

demand for these units, as determined by the Secretary, and (b) the unit of general local government and the local PHA for the area in which the housing is located approve of the units being used for that purpose.

An interim rule implementing this authority with respect to moderate rehabilitation was published in the Federal Register on August 9, 1982 (47 FR 34376), and became effective September 28, 1982. The present rule would provide comparable authority for substantial rehabilitation under 24 CFR Parts 881 and 883.

The rule amends §§ 881.201 and 883.302 to define SRO housing as a unit for occupancy by a single eligible individual capable of independent living, which does not contain food preparation and/or sanitary facilities and which is located within a multifamily structure consisting of more than 12 units. This definition is designed to distinguish SRO housing from congregate housing and from independent group residences, which have supportive services standards. The rule revises §§ 881.202(c)(3) and 883.303(c)(3) to replace the current limitation on the use of SRO housing only for relocation purposes with the statutory limitations noted above. Also, the rule revises §§ 881.203(c)(3) and 883.304(c)(3) to specify that the Fair Market Rents for SRO units will be 75% of the FMR for 0-bedroom units of the same type, rather than 100% of the FMR as provided in the existing regulation. This change represents the amount the Department believes is needed for SRO housing (in light of the fact that SRO housing units do not contain private bathroom and/or kitchen facilities) and is consistent with the FMR ceiling set for moderately rehabilitated SROs.

The rule also amends §§ 880.202(c) and 884.110(a) to delete the eligibility of SRO housing under the Section 8 new construction programs carried out by the Department and by the Farmers Home Administration (FmHA), respectively. Currently, newly constructed SRO housing is eligible for Section 8 assistance if it is planned specifically as a relocation resource. The Department has found a demonstrated interest in some localities in providing SRO housing through the rehabilitation of existing residential hotels, rooming houses, etc., and there appears to be a sufficient number of such structures to rehabilitate for this purpose. Conversely, there appears to be no similar interest in the construction of new SRO housing units. Therefore, the Department has decided that SRO housing will be eligible for Section 8 assistance only in substantially or moderately rehabilitated housing under the conditions established by the Congress in section 8(n).

With respect to SRO units assisted under the new statutory provisions, section 324(3) of the HCD Amendments of 1981 authorizes the Secretary to waive, in appropriate cases, both a statutory preference for single persons who are elderly, handicapped or displaced in determining priority for admission to Section 8 housing, and a 15 percent statutory limit on units under the jurisdiction of a public housing agency which are occupied by single persons who are not entitled to the statutory preference. This explicit waiver authority, coupled with the Department's general waiver authority contained in 24 CFR 899.101, will permit HUD to assure that current occupancy restrictions on single individuals not entitled to the statutory preference do not impede the purposes of the SRO authority. Accordingly, the Department has determined, consistent with the moderate rehabilitation interim rule, that this waiver authority need not be made explicit in the regulations. Field Office Managers may direct requests for waivers of 24 CFR Part 812 to the Assistant Secretary for Housing.

Cost and Rent Increases After Selection of Proposal

Section 324(3) of the HCD Amendments of 1981 added a new section 8(1) to the U.S. Housing Act of 1937. This new section establishes restrictions on approval of cost and rent increases in connection with newly constructed or substantially rehabilitated Section 8 projects. After selection of a proposal for such a project, the Secretary must limit cost or rent increases (except for adjustments in contract rent pursuant to section 8(c)(2)) to increases due to unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary.

These changes are implemented by amending 24 CFR Part 880 (for new construction), 24 CFR Part 881 (for substantial rehabilitation), 24 CFR Part 883 (for State agency new construction and substantial rehabilitation), and 24 CFR Part 884 (for the Section 8/FmHA new construction program).

Under existing regulations (§§ 880.204, 881.204, 883.305, and 884.107), contract rents for a project through cost certification must be within the applicable Fair Market Rent in effect at the time of the processing of the proposal, and must meet a "rent reasonableness" test. The rule retains these requirements, but limits increases in contract rents between proposal selection and cost certification to the statutory criteria. The present criteria for granting these increases are deleted §§ 880.403, 881.403, 883.408(d), and 884.211(c)).

The rule provides an illustrative listing of the circumstances which may qualify as an "unforeseen factor" for purposes of the regulation. These are strikes, weather delays, delays caused by local government, circumstances under which substantial errors by HUD (or the State agency or FmHA, as appropriate) in the original processing would otherwise result in serious inequities, and acts of God. Given the fact that what may constitute an "unforeseen factor" will vary with the factual setting, the determination to permit a cost or rent increase on this ground will be made on a case-by-case basis.

Consistent with the statute, the rule limits increases in the estimated project replacement cost between proposal selection and cost certification to those meeting the statutory criteria (§§ 880.204(c)(6), 881.204(c)(6), 883.305(c)(5), and 884.107(c)). The rule also makes a conforming change to limit increases in project replacement cost stemming from relocation costs borne by the project owner to those within the statutory criteria (§§ 880.209(b)(8)(iv), 881.209(b)(8)(iv), and 883.311(b)(8)(iv)).

With respect to Subpart C of Part 886 (Section 8 Assistance for the Disposition of HUD-Owned Projects), the existing regulatory provisions, which are more restrictive than the statutory contract rent increase limitations, are retained. The only change is a clarifying amendment specifying that any increases in contract rents must be due to *unforeseen* factors which caused cost increases.

In accordance with section 371(b) of the HCD Amendments of 1981, the new limitations on cost and rent increases between selection of the project proposal and cost certification will not apply to any project for which the Agreement to Enter into a Housing Assistance Payments Contract was originally entered into before October 1, 1981. Thus, the limitation will not apply even if the Agreement was amended on or after October 1, 1981. These projects will be subject to the applicable requirements before the effective date of this rule. However, the limitation will apply to any project where the Agreement was entered into on or after October 1, 1981, whether or not the Housing Assistance Payments Contract

itself has been executed before the effective date of this rule.

Numerous technical amendments are made throughout this rule correcting obsolete cross references to the now-deleted §§ 880.403, 881.403, and 883.408(d), and making more exact references to the amended §§ 880.204(b), 881.204(b), 883.305 and 884.107.

Modest Design

Section 324(1) of the HCD Amendments of 1981 requires the Secretary to assure that newly constructed housing to be assisted under Section 8 is modest in design, in order to increase housing opportunities for very low-income families.

This provision is consistent with Departmental policy with respect to both newly constructed and substantially rehabilitated Section 8 housing. See, e.g., §§ 880.101(d) and 880.204(a) and (e) for new construction; §§ 881.101(d) and 881.204 (a) and (e) for substantial rehabilitation; §§ 883.101(d) and 883.305 (a) and (e) for State agencies. This rule amends §§ 880.204(e), 883.305(e) and 884.110 for the Section 8 new construction programs administered by HUD, the State agencies, and the Section 8 FmHA program. Consistent with the above-described departmental policy, the amended modest design requirements are also extended to Section 8 substantial rehabilitation (§ 881.204(e)).

The rule is intended to clarify and streamline the existing policy with respect to design and amenities in connection with new and substantially rehabilitated Section 8 housing. The rule reiterates that assisted housing must be modest in design. The existing regulations limit amenities to those which are "generally provided in unassisted housing of modest design." The rule would limit amenities to those which are "generally provided in unassisted, decent, safe and sanitary housing for lower income families." Since there is no necessary correlation between the design of a project and the types of amenities provided, the change is intended to make clear that the amenities which may be provided are limited to those generally available to the income population the Section 8 Program is designed to serve.

The rule also eliminates the maintenance of lists of acceptable amenities by field offices and guidance in the regulation as to what an acceptable amenity may be. Such guidance will be made available in HUD handbooks.

Finally, the rule retains the current exemption from the limitation on amenities for partially assisted projects, and continues the current provision specifying that the use of more durable, high quality materials to control or reduce maintenance, repair and replacement costs will not be considered "excess amenities."

Preference for New Construction Sites Provided by State or Local Governments

Section 324(3) of the HCD Amendments of 1981 added a new subsection (m) to Section 8 of the U.S. Housing Act of 1937, which provides that, for the purpose of achieving the lowest cost in providing units in newly constructed projects, the Secretary shall give a preference in entering into Section 8 contracts to projects which are to be located on specific tracts of land provided by States or units of local government, if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective. The Joint Explanatory Statement of the Committee of Conference on the HCD Amendments of 1981 states, with respect to this provision: "The Conferees wish to clarify that the intent of this provision is that, where projects are considered substantially equal in other respects, the Secretary should give a preference to projects on land provided by state or local government."

The rule amends § 880.306(b) (new construction), § 883.204(d) (State agency), and § 884.204 (Section 8/FmHA) to incorporate this statutory change into applicable procedures for ranking and selecting new construction proposals for processing and funding.

Manufactured Homes

Section 329H of the HCD Amendments of 1981 revised and expanded section 8(j) of the U.S. Housing Act of 1937, which deals with Section 8 assistance with respect to manufactured homes. Before enactment of the HCD Amendments of 1981, section 8(j) dealt only with the rental of a manufactured home space by the *owner* of the manufactured home, and provided a special statutory assistance formula for this case (differing from the standard Section 8 assistance formula). As a result of the HCD Amendments of 1981, section 8(j) provides for Section 8 assistance to (1) a manufactured home owner who rents the space (under section 8(j)(2)) and (2) for a family which rents *both* the manufactured home *and* the space on which the home is located (section 8(j)(3)). For rental of a space only by the owner of a manufactured home, the 1981 amendments do not make any substantive change in the assistance formula governing the amount of subsidy for the space. With respect to assistance to a family renting the manufactured home and the space, section 8(j)(3) now provides for an assistance formula substantively identical to the standard Section 8 assistance computation independent of section 8(j).

The 1981 changes also clarify that assistance may be provided in existing, newly constructed or substantially rehabilitated manufactured home parks. In the case of a newly constructed or substantially rehabilitated park, the 1981 law provided that Section 8 assistance contracts entered into shall be for a term of not less than 240 months and not more than the maximum term for a manufactured home loan under section 2(b) of the National Housing Act. Finally, the 1981 law provided that the mortgage amount attributable to the rental spaces within the park may not exceed the limitation for manufactured home spaces contained in section 207(c)(3) of the National Housing Act, with such increases as are permitted by the Secretary under that section for high-cost areas.

A program-by-program description of the regulatory changes to implement the 1981 revisions follows.

Section 8 New Construction Program (Part 880). Under present Section 8 new construction regulations, HUD permits Section 8 assistance with respect to the rental of a "mobile home," consisting of the manufactured home and the space on which it is located (§ 880.202(c)). Assistance may not be provided, however, where a unit is occupied by an owner (§ 880.202(b)). Consequently, assistance only with respect to the space on which the home is located is not permitted. This rule adds a new § 880.202(j) and makes other appropriate amendments to also permit Section 8 assistance with respect to owners of manufactured homes who rent spaces in newly constructed manufactured home parks.

Section 8(j)(2)(B) of the United States Housing Act of 1937 specifies that the maximum monthly assistance payment for an owner of a manufactured home who rents the space upon which the home is located is the difference between the amount the family must contribute under section 3(a) of the 1937 Act and the sum of:

(1) The monthly payment made by the family to amoritize the cost of purchasing the home;

(2) The monthly utility payments made by the family subject to reasonable limitations prescribed by the Secretary; and

(3) The maximum monthly rent permitted for the space

In no case, however, may the assistance payment exceed the total amount of the rent for the space.

The rule implements these provisions by modifying the definitions of "Contract Rent", "Housing Assistance Payment", and "Total Housing Expense" contained in § 880.201 as follows:

—"Contract Rent" is defined, in the case of the rental of only a manufactured home space, as the total rent specified in the contract as payable by HUD and the tenant to the owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the home.

—"Housing Assistance Payment" is the difference between total housing expense and the family contribution. This definition is modified to specify that the assistance payment for rental of only a manufactured home space may not exceed the contract rent for the space.

—"Total Housing Expense" is defined, in the case of rental of only a manufactured home space, to include the family's monthly payment to amortize the purchase price for the manufactured home, in addition to the space rental and allowance for utilities.

The rule also amends the definition of "Fair Market Rent" to provide that, in the case of a manufactured home space, the FMR is HUD's determination of the rents that would be required to obtain, in a particular market area, privately developed and owned spaces of modest design in newly constructed manufactured home parks, including maintenance and mangement services with respect to the space, but excluding utility charges for the manufactured home.

A conforming change is also made to the definition of "Tenant Rent".

As noted above, the rule limits assistance to units in newly constructed manufactured home parks, and does not extend to assistance for units outside of parks. This is consonant with the project focus of the Section 8 new construction program.

Section 880.203 is amended to establish the Fair Market Rents for manufactured home spaces at 125 precent of the FMR for Section 8 Existing manufactured home spaces. HUD already has experience establishing Fair Market Rents with respect to manufactured home spaces under the Section 8 Existing Program. Therefore, the Department has decided to use these rents as a basis for determining FMRs under the new construction program. This provision also deletes as unnecessary § 880.203(d), which provided for the establishment of FMRs for manufactured homes only upon application.

Section 880.204(b), which relates to limitations on contract rents (amended as discussed above) is further amended by adding a new provision limiting approval of exception rents in excess of FMR to 110 percent of the applicable Fair Market Rent in the case of the rental of only a manufactured home space. This complies with section 8(j)(2)(A) of the U.S. Housing Act of 1937. A parallel amendment is made to the "rent reasonableness" provision of § 880.204(b) permitting contract rents to exceed those determined by market comparison by only 10 percent in the case of space rentals only.

In § 880.208, relating to the financing of Section 8 projects, a new provision is added to limit the principal amount of any mortgage attributable to the rental spaces in a manufactured home park to an amount per space determined in accordance with 24 CFR 207.33(b)—i.e., the FHA mortgage limits for manufactured home park spaces. This change implements section 8(j)(7) of the 1937 Act.

Finally, § 880.502, relating to the term of Section 8 contracts, is amended to specify that, for assisted units or spaces in newly constructed manufactured home parks, the term of the contract will be 20 years. This complies with section 8(j)(5) of the 1937 Act, which provides that the contract term, in the case of a newly constructed manufactured home park, shall be at least 20 years and not more than the maximum term of a manufactured home loan under section 2(b) of the National Housing Act. Although the section 2(b) statutory term is 23 years for multi-module manufactured homes, the Department has decided to set the term at 20 years, consistent with the existing Title I regulations for all manufactured homes.

Section 8 Substantial Rehabilitation Program (Part 881). As a matter of HUD policy, the current Section 8 substantial rehabilitation regulations do not permit assistance for manufactured homes or spaces under the substantial rehabilitation program. In response to enactment of the revised section 8(j), this rule amends the substantial rehabilitation regulations to permit Section 8 assistance with respect to the rental of spaces in substantially rehabilitated manufactured home parks where the family either (1) owns the manufactured home or (2) rents a *new* manufactured home and the space on which it is located (§ 881.202(i)). Consistent with past policy, the Department has decided not to extend the program to manufactured homes requiring substantial rehabilitation.

The definitions of "Contract Rent", "Fair Market Rent", "Housing Assistance Payment", "Tenant Rent", and "Total Housing Expense" contained in § 881.201 of the regulations are modified in the same manner as was done in the new construction program. Sections 881.202 (relating to project eligibility), § 881.203 (relating to Fair Market Rents for manufactured home spaces), § 881.204 (relating to limitations on contract rents, replacement costs and amenities), § 881.208 (relating to project financing), and § 881.502 (relating to the term of the Housing Assistance Payments Contract) are also amended in the same manner as in comparable sections of the Section 8 new construction regulations.

Section 8 Assistance to State Housing Agencies (Part 883). Current regulations authorize assistance under the State agency new construction program for manufactured homes just as under Part 880. As with Part 881, there is currently no State Agency substantial rehabilitation program for manufactured homes. This rule brings authority under the State Agency regulation in line with that being provided with respect to manufactured homes and spaces under the Part 880 Section 8 new construction program, and under the Part 881 substantial rehabilitation program.

The definitions of "Contract Rent", "Fair Market Rent", "Housing Assistance Payment", "Tenant Rent", and "Total Housing Expense" contained in § 883.302 of the regulations are modified in the same manner as was done in the new construction and substantial rehabilitation programs. Sections 883.303 (relating to project eligibility), § 883.304 (relating to Fair Market Rents for manufactured home spaces), § 883.305 (relating to limitations on contract rents, replacement costs and amenities), § 883.307 (relating to project financing), and § 883.603 (relating to the term of the Housing Assistance Payments Contract) are also amended in the same manner as in comparable sections of the Section 8 new construction and substantial rehabilitation regulations.

Minimum Term of HAP Contracts

Also included in this rule are provisions implementing section 211(b) of the Housing and Community Development Amendments of 1979. That section amended section 8(e)(1) of the U.S. Housing Act of 1937 to prohibit the Secretary from contracting to make housing assistance payments with respect to a newly constructed or

substantially rehabilitated dwelling unit for a term of less than 20 years. The rule revises §§ 881.502 and 884.108 to implement this statutory provision.

Part 885 Regulations

There currently are no provisions in Part 885 of the CFR (Section 202 Loans for Housing for the Elderly or Handicapped Program) which directly implement the statutory provisions covered in this interim rule. The Department is preparing a regulation amending Part 885 which, among other matters, would incorporate these amendments and other statutory changes to Section 8 programs affected by the HCD Amendments of 1981.

Findings and Miscellaneous

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domesic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The changes made by this rule can be considered technical adjustments to the existing structure of the Section 8 program. They do not change the goals toward which program activities are directed and any effect on small entities should be minor and positive.

The Secretary has determined that notice and prior public procedure are impracticable and contrary to the public interest and that good cause exists for making this rule effective as soon after publication as possible. Publication of this rule carries out requirements originally enacted by the Congress in 1979 and in 1981. Implementation of the rule will allow the Department to use more efficiently those Section 8 funds made available to HUD through the appropriation process. Savings can be effected through greater limitations on allowable contract rent increases, through provision of a preference for projects located on land provided by States and units of local government, and through a more effective limitation on amenities in approved projects. Issuance of an interim rule provides the most expedient route for implementation of these amendments, while allowing adequate opportunity for public comments. Comments are invited for a period of 60 days following this publication in the Federal Register and will be considered in the adoption of a final rule.

The Secretary also has determined that, for the reasons stated above, good cause exists for exempting this interim rule from the 30-day delay in effectiveness provided by the Administrative Procedure Act (5 U.S.C. 553(d)). However, Section (7)(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance, and Urban Affairs. At the time of publication of this interim rule, it is not known whether or when such waivers will be ganted. When this is known, a notice stating the effective date of this rule will be published in the **Federal Register.**

Information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned the following OMB control numbers: 2502-0029 (Application for Project Mortgage Insurance NH/ICF, FHA 2013); 2502-0118 (Previous Participation Certificate, HUD-2530); 2502-0124 (Application for Assignment of Portion of Set-Aside to Specific Project, HUD-52516); 2502-0182 (Housing Owner's Certification and Application for Housing Assistance, HUD-52670 and 52670(A)); 2502-0204 (Certification and Recertification of Tenant Eligibility, HUD 50059 and 50059(A)); 2502-0232 (Supplemental Application and Processing Forms, Housing for the Elderly or Handicapped, HUD-92013(E)); 2535-0027 (Affirmative Fair Housing Marketing Plan, HUD-935.2).

The Catalog of Federal Domestic Assistance program number is 14.156.

This rule is listed at 47 FR 48425 as items H-130-82, H-131-82 and H-133-82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Parts 880 and 881

Grant programs—Housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs—Housing and community development, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 884

Grant programs—Housing and community development, Rent subsidies, Rural areas, Low and moderate income housing.

24 CFR Part 886

Grant programs—Housing and community development, Housing assistance payments, Lower income housing.

Accordingly, 24 CFR Parts 880, 881, 883, 884 and 886 are amended as follows:

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

1. Section 880.103 is amended by revising paragraph (a) to read as follows:

§ 880.103 Construction and management.

(a) *Construction.* Construction of the project is carried out in conformance with the Agreement. Increases in contract rents are permitted with HUD approval during construction only for the reasons specified in § 880.204(b)(2). The project will be accepted by HUD and a Contract executed upon completion in accordance with the Agreement. These provisions are contained in Subpart D, §§ 880.401 through 880.404.

* * * * *

2. Section 880.201 is amended by revising the definitions of Contract Rent, Fair Market Rent, Housing Assistance Payment, Tenant Rent and Total Housing Expense to read as follows:

§ 880.201 Definitions.

* * * * *

Contract Rent. The total amount of rent specified in the Contract as payable by HUD and the tenant to the owner for an assisted unit. In the case of the rental of only a manufactured home space, "contract rent" is the total rent specified in the Contract as payable by HUD and the tenant to the owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

Fair Market Rent. HUD's determination of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned, newly constructed rental housing of modest design with suitable amenities. In the case of manufactured home spaces, Fair Market Rent is HUD's determination of the rents that would be required to obtain, in a particular market area, privately developed and owned spaces of modest design in newly constructed manufactured home parks, including maintenance and management services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. The payment is the difference between the total housing expense and the total family contribution. However, for rental of only a manufactured home space as provided in § 880.202(j), the payment may not exceed the contract rent for the space. A housing assistance payment, known as a "vacancy payment", is made to the owner when an assisted unit is vacant. Except in the case of a family renting only a manufactured home space, a payment may be made to the family when the utility allowance is greater than the total family contribution.

* * * * *

Tenant Rent. The portion of the contract rent payable directly to the owner by an eligible family occupying an assisted unit. Except in the case of a family renting only a manufactured home space, tenant rent equals the total family contribution less any utility allowance.

* * * * *

Total Housing Expense. The total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family. In the case of rental of only a manufactured home space, total housing expense also includes the family's monthly payment to amortize the purchase price of the manufactured home.

* * * * *

3. Section 880.202 is amended by revising paragraphs (b) and (c), and by adding a new paragraph (j) at the end thereof, to read as follows:

§ 880.202 Project eligibility.

* * * * *

(b) The Section 8 new construction program is for rental housing only. Cooperatives are considered rental housing rather than owner-occupied housing for purposes of this part. No assistance will be provided for any unit occupied by an owner, except as provided in paragraph (j).

(c) The types of new construction rental housing which can be assisted under this part include: (1) Single-family houses, manufactured homes (as provided in paragraph (j) of this section) and multifamily structures; and (2) housing designed for the elderly, disabled or handicapped.

* * * * *

(j) Units in newly constructed manufactured home parks are eligible for assistance under this part. Such assistance may be provided with respect to the rental of a new manufactured home and the space on which it is located, or, where a manufactured home is owned by an eligible family, with respect to the rental of the space alone (including a space in a cooperative).

4. Section 880.203 is amended by removing paragraph (d), redesignating paragraph (e) as paragraph (d), and by revising paragraphs (a) and (c) to read as follows:

§ 880.203 Fair market rents.

(a) Fair Market Rents are HUD's determination of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned, newly constructed rental housing of modest design with suitable amenities. In the case of manufactured home spaces, Fair Market Rent is HUD's determination of the rents that would be required to obtain, in a particular market area, privately developed and owned spaces of modest design in newly constructed manufactured home parks, including maintenance and management services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

(c) The Fair Market Rents for (1) dwelling units designed for the elderly, disabled or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) manufactured home spaces are 125 percent of the Fair Market Rents for Section 8 Existing manufactured home spaces.

* * * * *

5. Section 880.204 is amended by revising paragraphs (b) and (e), and by adding a new paragraph (c)(6) to read as follows:

§ 880.204 Limitations on contract rents, replacement costs and amenities.

* * * * *

(b)(1) *Limitation on contract rents.* The contract rents for a project through cost certification at completion must be within both of the following limitations:

(i) *Fair market rent.* The contract rent plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing. The published Fair Market Rents will reflect a trended rent in order to allow for the period of construction as stated in the publication. If the scheduled construction time for a project is less, an appropriate reduction will be made in determining the approvable contract rent. The contract rent plus utility allowance may exceed the applicable Fair Market Rent under special circumstances or if needed to implement a local Housing Assistance Plan:

(A) By up to 10 percent with the approval of the HUD field office manager, or

(B) Except in the case of the rental of a manufactured home space only, by up to 20 percent with the approval of the HUD Assistant Secretary for Housing.

(ii) *Rent reasonableness.* The contract rent must be reasonable. Contract rents will be considered reasonable only under the following conditions:

(A) When HUD determines that the rents compare reasonably to or are below the rents of unassisted units of similar age, design and location which provide comparable amenities and services; or

(B) Rents may exceed those determined by market comparison by no more than 20 percent (10 percent for the rental of manufactured home spaces only) only in cases where warranted by cost and expense estimates provided by the owner at final proposal and cost

certification at completion, as specified in §§ 880.308 and 880.405; or

(C) For small projects and partially assisted projects, the rents may exceed the comparable rents by up to 10 percent without the cost justification set forth in paragraph (b)(1)(ii)(B) of this section.

(2) *Limitation on contract rent increases.* Between selection of the Preliminary Proposal and cost certification at completion, increases in contract rents may be made only with HUD approval within the Fair Market Rent and rent reasonableness limitations established pursuant to paragraph (b)(1), and only to reflect the amount necessary to cover:

(i) Design changes required by HUD or the State or local government;

(ii) Changes in financing approved by HUD; or

(iii) Unforeseen factors (e.g., strikes, weather delays, delays caused by local government, substantial errors by HUD in the original processing which would otherwise result in serious inequities, and acts of God) determined by HUD to be beyond the owner's control.

All requests for increases in contract rents under this paragraph (b)(2) shall be submitted to the field office for review as soon as the need for the increase becomes apparent. After cost certification at completion, contract rents may be increased only by adjustments in accordance with § 880.609. This paragraph does not apply to any project where the Agreement was entered into before October 1, 1981.

(c) * * *

(6) With respect to Agreements entered into on or after October 1, 1981, between selection of the Preliminary Proposal and cost certification at completion, increases in the HUD-approved estimate of project replacement cost are permitted only for one or more of the reasons specified in paragraph (b)(2) of this section.

* * * * *

(e) *Limitation on housing design and amenities.* Housing assisted under this part shall be modest in design. Amenities in projects assisted under this part (except partially assisted projects) will be limited to those amenities, as determined by HUD, which are generally provided in unassisted, decent, safe and sanitary housing for lower income families in the market area. The use of more durable, high-quality materials to control or reduce maintenance, repair and replacement costs will not be considered an excess amenity.

6. Section 880.208 is amended by adding a new paragraph (e) at the end thereof, to read as follows:

§ 880.208 Financing.

* * * * *

(e) *Financing of manufactured home parks.* In the case of a newly constructed manufactured home park, the principal amount of any mortgage attributable to the rental spaces in the park may not exceed an amount per space determined in accordance with § 207.33(b) of this Title.

7. Section 880.209 is amended by revising paragraph (b)(8)(iv) to read as follows:

§ 880.209 Relocation and land acquisition requirements.

* * * * *

(b) * * *

(8) * * *

(iv) Owners are responsible for assuring that payments and services required by this section are provided. Costs incurred by the owner in providing these services and payments may be included in project replacement cost, subject to § 880.204(c)(6), except that payments to tenants permanently relocated in accordance with paragraph (b)(8)(ii) of this section may not be so included.

* * * * *

8. Section 880.306 is amended by revising paragraph (b)(2) and the first sentence of paragraph (c)(3), to read as follows:

§ 880.306 Preliminary evaluation and technical processing.

* * * * *

(b) * * *

(2)(i) Preference points in selection of proposals for technical processing will be given to small projects and partially assisted projects (except partially assisted projects relying on financing available through the Government National Mortgage Association under the authority of Section 305 of the National Housing Act).

(ii) After the ranking of proposals in accordance with the preference points, if two or more projects are substantially equal in other respects, preference shall be given to a project involving land provided by a State or local government, if HUD determines that the land is suitable for the proposed housing and that affording such a preference will be cost effective.

* * * * *

(c) * * *

(3) The field office will evaluate proposed rents in accordance with § 880.204(b)(1)(ii). * * *

* * * * *

7. Section 880.308 is amended by revising paragraph (a)(8) to read as follows:

§ 880.308 Contents of final proposal.

(a) * * *

(8) Cost estimates in the HUD prescribed form of the replacement cost, operating expenses, income, and debt service, sufficient to enable the field office to determine the cost justified rent, where required under § 880.204(b)(1)(ii). The replacement cost may include the cost to the owner of relocation (except for payments to tenants permanently relocated pursuant to § 880.209(b)(8)(ii)). The cost estimate must indicate and reflect any anticipated benefits from land write-down, tax abatement, favorable financing terms and similar savings.

* * * * *

10. Section 880.309 is amended by revising paragraph (a)(2) to read as follows:

§ 880.309 Review of final proposals.

(a) * * *

(2) The field office will review the projected replacement cost to assure compliance with the limitations of § 880.204(c) in effect at the time. The field office will also review the proposed rents to assure that the rents are within the limitations of § 880.204(b) and are cost justified, where required under § 880.204(b)(1)(ii) concerning reasonable rents. Cost justification at this stage will consist of review by the field office of the cost and expense estimates to determine whether the estimates justify a need for rents above comparable rents based on debt service calculation.

* * * * *

11. Section 880.401 is amended by revising paragraph (b) to read as follows:

§ 880.401 Timely performance of work.

* * * * *

(b) Extensions of the time may be granted for the reasons stated in the Agreement. However, contract rents will be increased only for the reasons stated in § 880.204(b)(2).

12. Section 880.405 is amended by revising paragraph (a)(3) to read as follows:

§ 880.405 Cost certification and adjustment of contract rents.

(a) * * *

(3) There will be no cost certification submission required for projects with rents that are equal to or less than comparable rents or for partially assisted projects or small projects except as required by § 880.204(b)(1)(ii); and

* * * * *

13. Section 880.502 is amended by revising the introductory language in paragraph (a), and all of paragraph (b), to read as follows:

§ 880.502 Term of contract.

(a) *Term (Except for Manufactured Home Parks).* The term of the contract will be as follows:

* * * * *

(b) *Term for Manufactured Home Parks.* For manufactured home units or spaces in newly constructed manufactured home parks, the term of the Contract will be 20 years.

* * * * *

14. Section 880.604 is revised to read as follows:

§ 880.604 Tenant rent.

The tenant rent is paid directly to the owner by the eligible family to whom an assisted unit is leased in partial payment of the contract rent. Except in the case of a family renting only a manufactured home space, it is equal to the family's total family contribution minus any utility allowance for the unit. If the family's total family contribution is less than the utility allowance for the unit which it occupies, the tenant rent payable by the family to the owner is zero.

§ 880.403—[Removed]

15. Section 880.403 is removed.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

16. Section 881.103 is amended by revising paragraph (a) to read as follows:

§ 881.103 Development and management.

(a) *Development.* Development of the project is carried out in conformance with the Agreement. Increases in contract rents are permitted with HUD approval during the rehabilitation period only for the reasons specified in § 881.204(b)(2). The project will be accepted by HUD and a Contract executed upon completion in accordance with the Agreement. These provisions are contained in Subpart D, §§ 881.401 through 882.404.

* * * * *

17. Section 881.201 is amended by (1) revising the definitions of Contract Rent, Fair Market Rent, Housing Assistance Payment, Tenant Rent and Total Housing Expense, and (2) adding a definition of Single Room Occupancy (SRO) Housing immediately following the definition of Secretary, to read as follows:

§ 881.201 Definitions

* * * * *

Contract Rent. The total amount of rent specified in the Contract as payable by HUD and the tenant to the owner for an assisted unit. In the case of the rental of only a manufactured home space, "contract rent" is the total rent specified in the Contract as payable by HUD and the tenant to the owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

Fair Market Rent. HUD's determination of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned, substantially rehabilitated rental housing of modest design with suitable amenities. In the case of manufactured home spaces, Fair Market Rent is HUD's determination of the rents that would be required to obtain, in a particular market area, privately developed and owned spaces of modest design in substantially rehabilitated manufactured home parks, including maintenance and management services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. The payment is the difference between the total housing expense and the total family contribution. However, for rental of only a manufactured home space as provided in §§ 881.202(i), the payment may not exceed the contract rent for the space. A housing assistance payment, known as a "vacancy payment", is made to the owner when an assisted unit is vacant. Except in the case of a family renting only a manufactured home space, a payment may be made to the family when the utility allowance is greater than the total family contribution.

* * * * *

Single Room Occupancy (SRO) Housing. A unit for occupancy by a single eligible individual capable of independent living, which does not contain food preparation and/or sanitary facilities and is located within a multifamily structure consisting of more than 12 units.

* * * * *

Tenant Rent. The portion of the contract rent payable directly to the owner by an eligible family occupying an assisted unit. Except in the case of a family renting only a manufactured home space, tenant rent equals the total family contribution less any utility allowance.

* * * * *

Total Housing Expense. The total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family. In the case of rental of only a manufactured home space, total housing expense also includes the family's monthly payment to amortize the purchase price of the manufactured home.

* * * * *

18. Section 881.202 is amended by revising paragraphs (b) and (c), and by adding at the end thereof a new paragraph (i), to read as follows:

§ 881.202 Project eligibility.

* * * * *

(b) The Section 8 substantial rehabilitation program is for rental housing only. Cooperatives are considered rental housing rather than owner-occupied housing for purposes of this part. No assistance will be provided for any unit occupied by an owner, except as provided in paragraph (i).

(c) Various types of rental housing can be assisted under this part including: (1) Single-family houses, manufactured homes in accordance with paragraph (i) of this section, and multifamily structures; (2) housing designed for the elderly, disabled or handicapped; and (3) single room occupancy (SRO) housing if (i) the housing is located in an area in which there is a significant demand for such units, as determined by the HUD field office, and (ii) the PHA and the unit of general local government in which the housing is located approve of such units being utilized for such purpose.

* * * * *

(i) Units in substantially rehabilitated manufactured home parks are eligible for assistance under this part. Such assistance may be provided with respect to the rental of a new manufactured home and the space on which it is located, or, where a manufactured home is owned by an eligible family, with respect to the rental of the space alone (including a space in a cooperative).

19. Section 881.203 is amended by revising paragraphs (a) and (c) to read as follows:

§ 881.203 Fair market rents.

(a) Fair Market Rents are HUD's determinations of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned substantially rehabilitated rental housing of modest design with suitable amenities. In the case of manufactured home spaces, Fair Market Rent is HUD's determination of the rents that would be required to obtain, in a particular market area, privately developed and owned spaces of modest design in substantially rehabilitated manufactured home parks, including maintenance and management services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

(c) The Fair Market Rents for (1) dwelling units designed for the elderly, disabled or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05, (2) congregate housing dwelling units are the same as for non-congregate units, (3) single room occupancy dwelling units are 75 percent of those for 0-bedroom units of the same type, and (4) manufactured home spaces are 125 percent of the Fair Market Rents for Section 8 Existing manufactured home spaces.

* * * * *

20. Section 881.204 is amended by revising paragraphs (b) and (e), and by adding a new *paragraph (6)* to paragraph (c)(6), to read as follows:

§ 881.204 Limitation on contract rents, replacement costs and amenities.

* * * * *

(b)(1) *Limitation on contract rents.* The contract rents for a project through cost certification at completion must be within both of the following limitations:

(i) *Fair market rent.* The contract rent plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing, except that for projects where the estimated cost of rehabilitation is less than 25 percent of the estimated value of the property after rehabilitation, the contract rent plus any utility allowance may not exceed 75 percent of the Fair Market Rent. The published Fair Market Rents will reflect a trended rent in order to allow for the period of rehabilitation work as stated in the publication. If the scheduled rehabilitation period for a project is less, an appropriate reduction will be made in determining the approvable contract rent. The contract rent plus utility allowance may exceed the applicable Fair Market Rent or 75 percent thereof, under special circumstances or if needed to implement a local Housing Assistance Plan:

(A) By up to 10 percent with the approval of the HUD field office manager, or

(B) Except in the case of the rental of a manufactured home space only, by up to 20 percent with the approval of the HUD Assistant Secretary for Housing.

(ii) *Rent reasonableness.* The contract rent must be reasonable. Contract rents will be considered reasonable only under the following conditions:

(A) When HUD determines that the rents compare reasonably to or are below the rents of unassisted units of similar age, design and location which provide comparable amenities and services; or

(B) Rents may exceed those determined by market comparison by no more than 20 percent (10 percent for the rental of manufactured home spaces only) only in cases where warranted by cost and expense estimates provided by the owner at final proposal and cost certification at completion, as specified in §§ 881.308 and 881.405; or

(C) For small projects and partially assisted projects, the rents may exceed the comparable rents by up to 10 percent without the cost justification set forth in paragraph (b)(1)(ii)(B) of this section.

(2) *Limitation on contract rent increases.* Between selection of the Preliminary Proposal and cost certification at completion, increases in contract rents may be made only with HUD approval within the Fair Market Rent and rent reasonableness limitations established pursuant to paragraph (b)(1), and only to reflect the amount necessary to cover:

(i) Design changes required by HUD or the State or local government;

(ii) Changes in financing approved by HUD; or

(iii) Unforeseen factors (e.g., strikes, weather delays, delays caused by local government, substantial errors by HUD in the original processing which would otherwise result in serious inequities, and acts of God) determined by HUD to be beyond the owner's control.

All requests for increases in contract rents under this subparagraph (b)(2) shall be submitted to the field office for review as soon as the need for the increase becomes apparent. After cost certification at completion, contract rents may be increased only by adjustments in accordance with § 881.609. This paragraph does not apply to any project where the Agreement was entered into before October 1, 1981.

(c) * * *

(6) With respect to Agreements entered into on or after October 1, 1981, between the selection of the Preliminary Proposal and cost certification at completion, increases in the HUD-approved estimate of project replacement cost are permitted only for one or more of the reasons specified in paragraph (b)(2) of this section.

* * * * *

(e) *Limitation on housing design and amenities.* Housing assisted under this part shall be modest in design. Amenities in projects assisted under this part (except partially assisted projects) will be limited to those amenities, as determined by HUD, which are generally provided in unassisted, decent, safe and sanitary housing for lower income families in the market area. The use of more durable, high-quality materials to control or reduce maintenance, repair and replacement costs will not be considered an excess amenity.

21. Section 881.208 is amended by adding a new paragraph (e), to read as follows:

§ 881.208 Financing.

* * * * *

(e) *Financing of manufactured home parks.* In the case of a substantially rehabilitated manufactured home park, the principal amount of any mortgage attributable to the rental spaces in the park may not exceed an amount per space determined in accordance with § 207.33(b) of this Title.

22. Section 881.209 is amended by revising paragraph (b)(8)(iv) to read as follows:

§ 881.209 Relocation and land acquisition requirements.

* * * * *

(b) * * *

(8) * * *

(iv) Owners are responsible for assuring that payments and services required by this section are provided. Costs incurred by the owner in providing these services and payments may be included in project replacement cost, subject to § 881.204 (c)(6), except that payments to tenants permanently relocated in accordance with paragraph (b)(8)(ii) of this section may not be so included.

* * * * *

23. Section 881.306 is amended by revising the first sentence of paragraph (c)(3) to read as follows:

§ 881.306 Preliminary evaluation and technical processing.

* * * * *

(c) * * *

(3) The field office will evaluate proposed rents in accordance with § 881.204 (b)(1)(ii). * * *

* * * * *

24. Section 881.308 is amended by revising paragraph (a)(8) to read as follows:

§881.308 Contents of final proposal.

(a) * * *

(8) Cost estimates in the HUD prescribed form of the replacement cost, operating expenses, income, and debt service, sufficient to enable the field office to determine the cost justified rent, where required under § 881.204(b)(1)(ii). The replacement cost may include the cost to the owner of relocation (except for payments to tenants permanently relocated pursuant to § 881.209(b)(8)(ii)). The cost estimate must indicate and reflect any anticipated benefits from land write-down, tax abatement, favorable financing terms and similar savings.

* * * * *

25. Section 881.309 is amended by revising paragraph (a)(2) to read as follows:

§ 881.309 Review of final proposal.

(a) * * *

(2) The field office will review the projected replacement cost to assure compliance with the limitations of § 881.204(c) in effect at the time. The field office will also review the proposed rents to assure that the rents are within the limitations of § 881.204(b) and are cost justified, where required under § 881.204(b)(1)(ii) concerning reasonable rents. Cost justification at this stage will consist of review by the field office of the cost and expense estimates to determine whether the estimates justify a need for rents above comparable rents based on a debt service calculation.

* * * * *

26. Section 881.401 is amended by revising paragraph (b) to read as follows:

§ 881.401 Timely performance of work.

* * * * *

(b) Extensions of the time may be granted for the reasons stated in the Agreement. However, contract rents will be increased only for the reasons stated in § 881.204(b)(2).

27. Section 881.405 is amended by revising paragraph (a)(3) to read as follows:

§ 881.405 Cost certification and adjustment of contract rents.

(a) * * *

(3) There will be no cost certification submission required for projects with rents that are equal to or less than comparable rents or for partially assisted projects or for small projects except as required by § 881.204(b)(1)(ii); and

* * * * *

28. Section 881.502 is revised to read as follows:

§ 881.502 Term of contract.

(a) *Term (Except for Manufactured Home Parks).* The term of the Contract will be as follows:

(1) Where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the project after completion of the rehabilitation, the contract will be for a term of 20 years for any dwelling unit.

2. Where the estimated cost of rehabilitation is 25 percent or more of the estimated value of the project after completion of rehabilitation, the contract may be for a term which

(i) Will cover the longest term, but not less than 20 years, of a single credit instrument covering:

(A) The cost of rehabilitation, or

(B) The existing indebtedness, or

(C) The cost of rehabilitation and the refinancing of the existing indebtedness, or

(D) The cost of rehabilitation and the acquisition of the property; and

(ii) For assisted units in a project financed with the aid of a loan insured or co-insured by the Federal government or a loan made, guaranteed or intended for purchase by the Federal government, will be 20 years for any dwelling unit; or

(iii) For units in a project financed other than as described in paragraph (a)(2)(ii) of this section will not exceed 30 years for any dwelling unit except that this limit will be 40 years if (A) the project is owned or financed by a loan or loan guarantee from a state or local agency, (B) the project is intended for occupancy by non-elderly families and (C) the project is located in an area designated by HUD as one requiring special financing assistance.

(b) *Term for manufactured home parks.* For manufactured home units or spaces in substantially rehabilitated manufactured home parks, the term of the Contract will be 20 years.

(c) *Staged projects.* If the project is completed in stages, the term of the Contract must relate separately to the units in each stage. The total Contract term for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.

29. Section 881.604 is revised to read as follows:

§ 881.604 Tenant rent.

The tenant rent is paid directly to the owner by the eligible family to whom an assisted unit is leased in partial payment of the contract rent. Except in the case of a family renting only a manufactured home space, it is equal to the family's total family contribution minus any utility allowance for the unit. If the family's total family contribution is less than the utility allowance for the unit which it occupies, the tenant rent payable by the family to the owner is zero.

30. Section 881.707 is amended by revising paragraphs (c)(2) and (c)(3) to read as follows:

§ 881.707 Submission, review and approval requirements for NSA proposals which are not HUD-insured and not State agency-financed.

* * * * *

(c) * * *

(2) The proposed Contract Rents plus any allowance for utilities and other services and the estimated replacement costs do not exceed the limitations of § 881.204 (b) and (c).

(3) The proposed Contract Rents are reasonable pursuant to § 881.204(b)(1)(ii).

* * * * *

§ 881.403 [Removed]

31. Section 881.403 is removed.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM STATE HOUSING AGENCIES

32. Section 883.103 is amended by revising paragraph (a) to read as follows:

§ 883.103 Construction and management of new construction and substantial rehabilitation projects.

(a) *Construction.* Construction of the project is carried out in conformance with the Agreement approved by HUD. Increases in contract rents are permitted during construction for the reasons specified in § 883.305(b)(2). Upon completion in accordance with the Agreement, the project will be accepted by the Agency, which certifies to HUD that the project has been acceptably completed and a Contract executed. These provisions are contained in subpart D, §§ 883.407 through 883.410.

* * * * *

33. Section 883.204 is amended by revising paragraph (d) to read as follows:

§ 883.204 Set-asides.

* * * * *

(d) *Agency notification and selection requirements.* Promptly after the Agency receives notification of its set-aside from HUD, the Agency must make a public announcement that it has been allocated a set-aside, specify the amount of the set-aside by housing and household type, indicate where and when applications to the Agency for fund commitments may be submitted by owners, and indicate that the Agency's selection procedure is available upon request. The Agency must have a written procedure for open and competitive owner selection. Where new construction proposals are considered substantially equal in other respects, the Agency must give a preference in owner selection for projects involving land provided by a State or local government, if the Agency determines that the land is suitable for the proposed housing and that affording such a preference will be cost effective. The Agency must certify that these requirements have been met.

34. Section 883.302 is amended by (1) revising the definitions of Contract Rent, Fair Market Rent, Housing Assistance Payment, Tenant Rent and Total Housing Expense, and (2) adding a definition of Single Room Occupancy (SRO) Housing immediately following the definition of Secretary, to read as follows:

§ 883.302 Definitions.

* * * * *

Contract Rent. The total amount of rent specified in the Contract as payable by the Agency and the tenant to the owner for an assisted unit. In the case of the rental of only a manufactured home space, "contract rent" is the total rent specified in the Contract as payable by the Agency and the tenant to the owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

Fair Market Rent (FMR). HUD's determination of the rents, including utilities (except telephones), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned, newly constructed or substantially rehabilitated rental housing of modest design with suitable amenities. In the case of manufactured home spaces, Fair Market Rent is HUD's determination of the rents that would be required to obtain, in a particular market area, privately developed and owned spaces of modest design in newly constructed or substantially rehabilitated manufactured home parks, including maintenance and management services with respect to the space, but excluding utility charges for the manufactured home.

* * * * *

Housing Assistance Payment. The payment made to the owner of an assisted unit by the State Agency as provided in the Contract. The payment is the difference between the total housing expense and the total family contribution. However, for rental of only a manufactured home space as provided in § 883.303(i), the payment may not exceed the contract rent for the space. A housing assistance payment, known as a "vacancy payment", is made to the owner when an assisted unit is vacant. Except in the case of a family renting only a manufactured home space, a payment may be made to the family when the utility allowance is greater than the total family contribution.

* * * * *

Single Room Occupancy (SRO) Housing. A unit for occupancy by a single eligible individual capable of independent living, which does not contain food preparation and/or sanitary facilities and is located within a multifamily structure consisting of more than 12 units.

* * * * *

Tenant Rent. The portion of the contract rent payable directly to the owner by an eligible family occupying an assisted unit. Except in the case of a family renting only a manufactured home space, tenant rent equals the total family contribution less any utility allowance.

* * * * *

Total Housing Expense. The total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family. In the case of rental of only a manufactured home space, total housing expense also includes the family's monthly payment to amortize the purchase price of the manufactured home.

* * * * *

35. Section 883.303 is amended by revising paragraphs (b) and (c) and by adding a new paragraph (i), to read as follows:

§ 883.303 Project eligibility.

* * * * *

(b) The Section 8 program under this part is for rental housing only. Cooperatives are considered rental housing rather than owner-occupied housing for purposes of this part. No assistance will be provided for any unit occupied by an owner, except as provided in paragraph (i).

(c) The types of rental housing which can be assisted under this part include: (1) Single-family houses, manufactured homes in accordance with paragraph (i) of this section, and multifamily structures; (2) housing designed for the elderly, disabled or handicapped; and (3) substantially rehabilitated single room occupancy housing, if (i) the housing is located in an area in which there is a significant demand for such units, as determined by the HUD field office, and (ii) the PHA and the unit of general local government in which the housing is located approve of such units being utilized for such purpose.

* * * * *

(i) Units in newly constructed or substantially rehabilitated manufactured home parks are eligible for assistance under this part. Such assistance may be provided with respect to the rental of a new manufactured home and the space on which it is located or, where a manufactured home is owned by an eligible family, with respect to the rental of the space alone (including a space in a cooperative).

36. Section 883.304 is amended by removing paragraph (d) and redesignating paragraph (e) as paragraph (d), and by revising paragraph (a) and (c), to read as follows:

§ 883.304 Fair market rents.

(a) Fair Market Rents are HUD's determination of the rents, including utilities (except telephone), ranges and refrigerators, parking and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned rental housing of modest design with suitable amenities. In the case of manufactured home spaces, Fair Market Rent is HUD's determination of the rents that would be required to obtain, in a particular market area, privately developed and owned spaces of modest design in newly constructed or substantially rehabilitated manufactured home parks, including maintenance and management services with respect to the space, but excluding

utility charges for the manufacture home.

* * * * *

(c) The Fair Market Rents for (1) dwelling units designed for the elderly, disabled or handicapped are those for the appropriate size unit, not to exceed 2-bedrooms for the elderly, multiplied by 1.05, (2) congregate housing dwelling units are the same as for non-congregate units, (3) single room occupancy dwelling units are 75 percent of those for 0-bedroom units of the same type, and (4) manufactured home spaces are 125 percent of the Fair Market Rents for Section 8 Existing manufactured home spaces.

* * * * *

37. Section 883.305 is amended by revising paragraphs (b) and (e), and by adding a new (c)(5), to read as follows:

§ 883.305 Limitations on contract rents, replacement costs and amenities.

* * * * *

(b)(1) *Limitation on contract rents.* The contract rents for a project through cost certification at completion must be within both of the following limitations:

(i) *Fair market rent.* The contract rent (including a possible adjustment using the FCC) plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing. The published Fair Market Rents will reflect a trended rent in order to allow for the period of construction as stated in the publication. If the scheduled construction time for a project is less, an appropriate reduction will be made in determining the approvable contract rent. The contract rent plus utility allowance may exceed the applicable Fair Market Rent under special circumstances or if needed to implement a local Housing Assistance Plan:

(A) By up to 10 percent with the approval of the HUD field office manager, or

(B) Except in the case of the rental of a manufactured home space only, by up to 20 percent with the approval of the HUD Assistant Secretary for Housing.

(ii) *Rent reasonableness.* The contract rent must be reasonable. The HFA must certify to HUD that:

(A) The rents compare reasonably to or are below the rents of unassisted units of similar age, design and location which provide comparable amenities and services; or

(B) Any rents exceed those determined to compare reasonably do so by no more than 20 percent (10 percent for the rental of manufactured home spaces only), and are warranted by cost and expense estimates acceptable to the HFA and cost certification at completion, as specified in § 883.441; or

(C) For small projects and partially assisted projects, the rents exceed the rents for similar units by no more than 10 percent. Where rents exceed those determined to compare reasonably by more than 10 percent but no more than 20 percent, the cost justification set forth in paragraph (b)(1)(ii)(B) applies.

(2) *Limitation on contract rent increases.* HFA must certify that, between approval of the Proposal and cost certification at completion, increases in contract rents have been made only with HFA approval within the Fair Market Rent and rent reasonableness limitations established pursuant to paragraph (b)(1), and only to reflect the amount necessary to cover:

(i) Design changes required by HFA, HUD, or the State or local government;

(ii) Changes in financing approved by HFA; or

(iii) Unforeseen factors (e.g., strikes, weather delays, delays caused by local governments, substantial errors by HUD or the HFA in the original processing which would otherwise result in serious inequities, and acts of God) determined by the HFA to be beyond the owner's control.

After cost certifications at completion, contract rents may be increased only by adjustments in accordance with § 883.710. This paragraph (b)(2) does not apply to any project where the Agreement was entered into before October 1, 1981.

(c) * * *

(5) With respect to Agreements entered into on or after October 1, 1981, the HFA must certify to HUD that, between the approval of the Proposal and cost certification at completion, increases in the HFA-approved estimate of project replacement cost have been permitted only for one or more of the reasons specified in paragraph (b)(2) of this section.

* * * * *

(e) *Limitation on housing design and amenities.* Housing shall be modest in design. The HFA must certify that amenities in all new construction and substantial rehabilitation projects assisted under this part (except partially assisted projects) will be limited to those amenities, as determined by HUD and the HFA, which are generally provided in unassisted, decent, safe and sanitary housing for lower income families in the market area. The use of more durable, high-quality materials to control or reduce maintenance, repair and replacement costs will not be considered an excess amenity.

38. Section 883.307 is amended by adding a new paragraph (e), to read as follows:

§ 883.307 Financing.

* * * * *

(e) In the case of a newly constructed or substantially rehabilitated manufactured home park, the principal amount of any mortgage attributable to the rental spaces in the park may not exceed an amount per space determined in accordance with § 207.33(b) of this Title.

39. Section 883.311 is amended by revising paragraph (b)(8)(iv) to read as follows:

§ 883.311 Relocation and land acquisition requirements.

* * * * *

(b) * * *

(8) * * *

(iv) Owners are responsible for assuring that payments and services required by this section are provided. Costs incurred by the owner in providing these services and payments may be included in project replacement cost subject to § 883.305(c)(5), except that payments to tenants permanently relocated in accordance with paragraph (b)(8)(ii) of this section may not be included.

* * * * *

40. Section 883.403 is amended by revising paragraph (d)(3) to read as follows:

§ 883.403 HFA submission of proposals.

* * * * *

(d) * * *

(3) That the proposal complies with §§ 883.305(b)(1)(ii) regarding the reasonableness of contract rents, 883.305(e) regarding amenities, 883.306 regarding distributions to owners, and 883.305(c)(2) regarding replacement costs.

* * * * *

§ 883.408 [Amended]

41. Section 883.408 is amended by removing paragraph (d).

42. Section 883.411 is amended by revising paragraph (a) to read as follows:

§ 883.411 Cost certification.

(a) As soon as possible after execution of the Contract, the HFA must certify to HUD that it has reviewed and approved the certified costs submitted by the owner. The HFA must submit to HUD with its certification a summary of the owner's cost certifications. The certifiable cost may include relocation costs incurred by the owner under § 883.311, except for payments to tenants permanently relocated under § 883.311(b)(8)(ii). The owner's cost certifications must be consistent with

any HUD requirements and be supported by the unqualified opinion of an Independent Public Accountant. A cost certification submission is not required by HUD for projects with rents that are equal to or less than comparable rents, or except as required by § 883.305(b)(1)(ii), for partially assisted projects or small projects. HFAs may impose their own cost certification requirements in addition to any required by HUD.

* * * * *

43. Section 883.603 is amended by revising paragraph (a) and paragraphs (b)(2), (3) and (4) to read as follows:

§ 883.603 Term of contract.

(a) *New Construction.* The term of the Contract will be governed by the following provisions:

(1) For assisted units in a project financed with the aid of a loan insured by the Federal government (including coinsurance under Section 244 of the National Housing Act) or a loan made, guaranteed or intended for purchase by the Federal government and for assisted units in newly constructed manufactured home parks, the term of the Contract will be 20 years.

(2) For assisted units in a project owned by or financed by a loan or loan guarantee from a State or local agency, where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by the Assistant Secretary for Housing as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 40 years for any dwelling unit, or (ii) the term of the permanent financing (but not less than 20 years).

(3) For assisted units in all other projects, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 30 years for any dwelling unit, or (ii) the term of the permanent financing (but not less than 20 years).

(b) * * *

(2) For assisted units in a project financed with the aid of a loan (including coinsurance under Section 244 of the National Housing Act), or a loan made, guaranteed or intended for purchase by the Federal Government, and for assisted units in a substantially rehabilitated manufactured home park, the term of the Contract will not exceed 20 years; or

(3) For assisted units in a project owned or financed by a loan or loan guarantee from a State or local agency where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by the Assistant Secretary for Housing as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit. There will be a provision for renewal for additional terms of not more than 5 years each. The total of initial and renewal terms will not exceed the lesser of (i) 40 years for any dwelling unit, or (ii) the term of the permanent financing (but not less than 20 years); or

(4) For assisted units in projects financed other than as described in paragraphs (b)(2) or (3) of this section, the Contract will be for an initial term of 20 years for any dwelling unit. There will be a provision for renewal for additional terms of not more than 5 years each. The total of initial and renewal terms will not exceed the lesser of (i) 30 years for any dwelling unit, or (ii) the term of the permanent financing (but not less than 20 years).

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

§ 884.102 [Amended]

44. Paragraph (d) of the definition of Fair Market Rent in § 884.102 is removed.

45. Section 884.107 is amended by adding a new paragraph (c), to read as follows:

§ 884.107 Initial contract rents.

* * * * *

(c) *Limitation on contract rent increases.* FmHA must certify that, between approval of the Proposal and execution of the Contract, increases in contract rents may be made only with FmHA approval within the Fair Market Rent and rent reasonableness limitations referred to in paragraphs (a) and (b) of this section, and only to reflect the amount necessary to cover:

(1) Design changes required by HUD, FmHA, or the State or local government;

(2) Changes in financing approved by FmHA; or

(3) Unforeseen factors (e.g., strikes, weather delays, delays caused by local government, substantial errors by FmHA or HUD in the original processing which would otherwise result in serious inequities, and acts of God) determined by HUD to be beyond the owner's control.

After Contract execution, contract rents may be increased only by adjustments in accordance with § 884.109. This paragraph (c) does not apply to any project where the Agreement was entered into before October 1, 1981.

46. Section 884.108 is amended by revising paragraph (a) to read as follows:

§ 884.108 Term of housing assistance payments contract.

(a) Except in the case of a Contract described in paragraph (b), the Contract shall be for an initial term of 20 years: *Provided,* That at the end of such Contract term and at the request of FmHA, HUD may, subject to the availability of contract and budget authority, authorize the execution of a new Contract providing for a total Contract term of an additional 20 years.

* * * * *

47. Section 884.110 is revised to read as follows:

§ 884.110 Types of housing and property standards.

(a) Newly constructed single-family houses and multifamily structures may be utilized in this program. Congregate housing may be developed for elderly, disabled, or handicapped Families and individuals. Except in the case of housing predominantly for the elderly, high-rise elevator projects for Families with children may not be utilized unless HUD determines there is no practical alternative.

(b) Participation in this program requires compliance with (1) Minimum Property Standards, (2) in the case of congregate housing, the appropriate HUD guidelines and standards, (3) HUD requirements pursuant to section 209 of the HCD Act for projects for the elderly, disabled or handicapped, (4) HUD requirements pertaining to noise abatement and control, and (5) applicable State and local laws, codes, ordinances, and regulations.

(c) Housing assisted under this part shall be modest in design. Amenities in projects assisted under this part (except partially assisted projects) will be limited to those amenities, as determined by HUD, which are generally provided in unassisted, decent, safe and sanitary housing for lower income families, in the market area. The use of more durable, high-quality materials to control or reduce maintenance, repair and replacement costs will not be considered an excess amenity.

48. Section 884.204 is revised to read as follows:

§ 884.204 Obtaining proposals.

FmHA shall establish its own procedures for obtaining and selecting proposals for submission to HUD under this part. Where new construction proposals are considered substantially equal in other respects, FmHA shall give preference in selection to proposals involving land provided by a State or local government, if FmHA determines that the land is suitable for the proposed housing and that affording such a preference will be cost effective.

49. Section 884.207, paragraph (b)(5), is amended by striking out the period at the end, inserting a semicolon in its place, and adding a new paragraph (b)(6), to read as follows:

§ 884.207 Submission of acceptance of notification and certification of compliance.

* * * * *

(b) * * *

(6) Increases in contract rents to which § 884.107(c) applies have been made in accordance with the requirements of that section.

* * * * *

50. Section 884.211 is amended by revising paragraphs (b) and (c) to read as follows:

§ 884.211 Construction period.

* * * * *

(b) *Delays.* Although extensions of time may be granted for the reasons specified in the Agreement, no increases in Contract Rents may be granted on that account, except as provided in § 884.107(c).

(c) *Changes.* The Owner shall submit for HUD approval any changes from the approved Proposal which would materially reduce or alter the Owner's obligations or any changes which would alter the design or materially reduce the quality or amenities of the project. HUD may, after consultation with FmHA, condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior HUD approval, HUD may determine that Contract Rents shall be reduced or that the Owner shall remedy the deficiency as a condition for acceptance of the project. Contract rents may be increased between approval of the Proposal and execution of the Contract, except as provided in § 884.107(c).

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

51. Section 886.334 is amended by revising paragraph (b)(1)(i) and (b)(1)(iii) to read as follows:

§ 886.334 Execution of housing assistance payments contract.

* * * * *

(b) * * *

(1) * * *

(i) When, during rehabilitation, work items are discovered which could not reasonably have been anticipated by HUD or are necessitated by an unforeseen change in local codes or ordinances; were not listed in the work write-up prepared by HUD but are deemed by HUD, in writing, to be necessary work; and will require additional expenditures which would make the rehabilitations infeasible at the Contract Rents established in the Agreement. Under these circumstances, HUD will:

(A) Approve a change order to the rehabilitation contract, or amend the work write-up if there is no rehabilitation contract, specifying the additional work to be accomplished and the additional cost for this work,

(B) Recompute the Contract Rents, within the limits specified in paragraph (b)(4) of this section, based upon the revised cost estimate, and

(C) Prepare and execute an amendment to the Agreement stating the additional work required and the revised Contract Rents.

* * * * *

(iii) When, due to unforeseen factors, the actual certified relocation payments made by the Owner to temporarily relocated Families varies from the cost estimated by HUD.

* * * * *

(Sec. 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f); Sec. 7(d), Department of Housing and Urban Development Act [42 U.S.C. 3535(d)])

Dated: February 3, 1983.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-7713 Filed 3-25-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Approval of the Abandoned Mine Land Reclamation Plan for the State of Iowa Under the Surface Mining Control and Reclamation Act of 1977.

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

ACTION: Final rule

SUMMARY: On December 17, 1982, the State of Iowa submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission was to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932–49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Iowa Abandoned Mine Land Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Iowa Plan.

EFFECTIVE DATE: The rule is effective March 28, 1983.

ADDRESSES: Copies of the full text of the Iowa Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Missouri Field Office, 818 Grand Avenue, Kansas City, Missouri 64106.

Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319.

Office of Surface Mining Reclamation and Enforcement, Administrative Record—Room 5315, 1100 L. Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles V. Smith, Program Manager, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240 Telephone (202) 343–7921

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate

reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Department may approve the plan once the State has an approved Regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 47 FR 28600–28601, June 30, 1982). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Director on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950. Provisions relating to Iowa are found in 30 CFR Part 915.

Background on the Iowa Abandoned Mine Land Reclamation Plan Submission

On June 12, 1979, a cooperative agreement between the State of Iowa, Department of Natural Resources, Mined Land Reclamation Division, and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Iowa Abandoned Mine Land Reclamation Plan would be assembled.

The public was provided adequate notice and opportunity to be heard on the Plan. The record did not reflect any major unresolved controversies. Therefore, a public hearing on the Plan was deemed unnecessary.

On December 17, 1982, the State of Iowa submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

Notice of receipt of the submission initiating the Plan review was published January 20, 1983 (48 FR 2555–2557). The announcement requested public comments. On February 25, 1983, OSM's Missouri Field Office Director and on March 3, 1983, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Iowa Reclamation Plan.

The administrative record on the Iowa Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement at the address listed above in "Addresses."

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA the Assistant Secretary finds that Iowa has submitted a Plan for reclamation of abandoned mine lands and has the ability and necessary legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.13, that:

(a) The Iowa Department of Soil Conservation has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary solicited and considered the views of other Federal agencies having an interest in the plan as required by 30 CFR 884.14(a)(2). Agencies that reviewed the Plan include: The Department of the Army; U.S. Environmental Protection Agency (EPA); U.S. Department of the Interior, Bureau of Land Management (BLM); U.S. Department of the Interior, Geological Survey (USGS); and U.S. Department of the Interior, Fish and Wildlife Service (FWS). USGS, BOM, and FWS recommended changes or revisions to the Iowa Plan.

Disposition of Comments

1. USGS commented that in figure 5.5 on page 5–31 of the Plan that in the phase "Upper Mississippi Aquifer and Lower Mississippi Aquifer, " Mississippi should be changed to Mississippi and Cambro-Ordovician Aquifer should be Cambrian-Ordovician Aquifer. OSM agrees with these recommended changes. The State has revised the plan accordingly.

2. BOM suggested that the format proposed for the Site Priority Checklist (Figure 1, page 16) be amended to include a list of mineral resources known to occur in the site being evaluated. OSM's response is that the purpose of the Site Priority Checklist is to identify potential threats to public health, safety, general welfare, property and the environment as stipulated in Subsections 403(1), (2) and (3) of SMCRA. The suggested mineral resources list could be of benefit to future mining consideration but could be addressed in the environmental assessment on a site by site basis. OSM's response is that the format of figure 1 is sufficient as present.

3. BOM suggested that the Project Evaluation Matrix (Figure 2, page 20) should include an intermediate response between "high" and "low" for selecting projects. OSM's response is that Figure 2 includes weighting factors that compensate for intermediate responses. No modification to Figure 2 is necessary.

4. FWS commented that the discussion of the "rarest state animals and plants" (page 5–58) be expanded to address federal aspects of endangered species and included a comprehensive list of major responsibilities required of Federal agencies under the Endangered Species Act of 1973. OSM's response is that endangered species considerations will be covered in the environmental assessment on a site by site basis. No modification to the Plan is required; however, the steps that FWS suggested when conducting a biological assessment have been forwarded to the State for future reference.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local

government agencies or geographic regions; and

2. Approval will not have 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 rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secreary has determined that the Iowa Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1), the Assistant Secretary's decision on the Iowa Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 915

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

Dated: March 14, 1983.

James R. Harris,

Director, Office of Surface Mining.

Dated: March 21, 1983.

Daniel N. Miller Jr.,

Assistant Secretary for Energy and Minerals.

PART 915—IOWA

Therefore, Part 915 is amended by adding § 915.20 to read as follows:

§ 915.20 Approval of Iowa Abandoned Mine Plan

The Iowa Abandoned Mine Plan, as submitted and revised is approved.

Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, Missouri Field Office, 818 Grand Avenue, Kansas City, Missouri 64106.

Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319.

[FR Doc. 83-7913 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 917

Approval of Amendment to Kentucky Permanent Program Under the Surface Mining Control and Reclamation Act of 1977 to Partially Satisfy a Condition of Program Approval

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 917 by partially satisfying condition (i) of approval of the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This condition relates to the discretion to exclude emergency spillways from the design requirements for sedimentation ponds. Kentucky submitted material which partially satisfies this condition of the Secretary's approval of May 18, 1982 (47 FR 21404–21435).

EFFECTIVE DATE: The partial satisfaction of this condition is effective on March 28, 1983.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone (606) 233–7327.

SUPPLEMENTARY INFORMATION:

Background on the Kentucky Program Submission

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register.**

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register.**

Background on the Secretary's Conditional Approval

Deficiency (i) of the Kentucky program for which the Secretary required correction as a condition of approval was as follows:

(i) The approval found in § 917.10 will terminate on October 31, 1983, unless Kentucky submits to the Secretary by that date copies of promulgated regulations, or otherwise amends its program to provide standards acceptable to the Secretary for the design of sedimentation ponds without emergency spillways. Furthermore, pending completion of the above, Kentucky may not use its authority to approve sedimentation ponds designed without emergency spillways.

Submission of Program Amendment

On January 7, 1983, OSM received from the Commonwealth of Kentucky Technical Reclamation Memorandum (TRM) #7 of the Kentucky Department for Surface Mining Reclamation and Enforcement, regarding the design of single spillway ponds with open spillways and no embankment. This document sets forth the design and construction criteria for such spillway ponds, and is intended to partially satisfy condition (i).

OSM published a notice in the **Federal Register** on January 27, 1983, announcing receipt of this document and inviting public comment on whether the proposed program amendment partially corrected this deficiency (48 FR 3779–3780). The public comment period ended February 28, 1983. A public hearing scheduled on February 9, 1983, was not held because no one expressed a desire to present testimony.

The January 27, 1983 **Federal Register** notice also announced receipt of: (1) Additional provisions intended to satisfy condition (d), and (2) certain other amendments to the Kentucky program. The Secretary has not completed his review of this material. The Secretary will announce his decision on these State program amendments at a later date.

Secretary's Finding

The Secretary finds that TRM #7, submitted by Kentucky on January 7, 1983, partially satisfies condition (i). 30

CFR 816.46(i) and 817.46(i) require that an appropriate combination of principal and emergency spillways be provided to safely discharge the runoff from a 25-year, 24-hour precipitation event. TRM #7 describes the design and construction criteria for a single spillway pond. Such a structure shall be permitted only on those ponds which: (1) Are either entirely excavated, or (2) have a small levee or spur dike to control outflow. These ponds would have no permanent impoundment above ground level, and will pose no danger to human life or property in the event of an overflow. Likewise, the damage to the environment could be expected to be insignificant from an overflow during a storm event. For these reasons, the Secretary finds that for these structures TRM #7 is no less effective than 30 CFR 816.46(i) and 817.46(i).

Public Comment

1. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) objects to TRM #7 on the following grounds:

a. ARDFK is concerned about the stability of the level or embankment and prevention of pond failure from cresting or overtopping. The commenter is also concerned about the ability of the pond to properly provide detention time to trap sediment and to function properly.

The Secretary believes that these concerns are addressed by the proper design of the spillway capacity to handle the 25-year, 24-hour storm, and that the number of spillways is not an issue as long as the spillway capacity is adequate. TRM #7 specifically requires such single spillway ponds to safely pass the 25-year, 24-hour storm by applying the Kentucky rules at 405 KAR 16:090 and 18:090.

b. ARDFK charges that TRM #7 fails to provide adequate standards for the design of single spillway ponds since it allows an outflow level of as much as five (5) feet in height without consideration of the pond's volume.

The Secretary disagrees because TRM #7 does provide adequate standards for the design of single spillway ponds as explained in the Secretary's Finding and in the response to comment 1(a), above. Further, the design does consider the volume because the in-flow rate and the detention time are known design parameters. (Detention time)×(in-flow rate)=volume.

c. ARDFK alleges that the use of single spillways on a levee pond will invite overtopping since the spillway will not pass a 100-year storm event.

30 CFR 816.46(i), however, does not require the spillway capacity for a 100-year storm event, but a 25-year, 24-hour storm event which TRM #7 does require. The Secretary does not agree with the commenter because TRM #7 requires adequate design criteria.

d. ARDFK states that the limitation in TRM #7 to "Class A" structures is insufficient protection because engineers routinely classify all structures as Class A unless the regulatory authority determines during review that the classification is insufficient.

Since the commenter has provided no evidence of such an engineering practice, the Secretary is unable to conclude that such a practice exists. Further, by means of the oversight of the Kentucky program, the Secretary will be reviewing these single spillway ponds for adequate classification.

e. ARDFK asserts that TRM #7 is legally and scientifically insufficient because the pond will lack the permanent pool necessary to adequately settle out sediment. The use of such a pond is in violation of SMCRA Section 515(b)(10)(B)(i) since it uses a technology that will not prevent additional contributions of suspended solids, but invites such contributions.

The Secretary disagrees because TRM #7 specifically requires that such ponds not result in additional contributions of suspended solids, and that channel linings or other appropriate erosion control measures be used pursuant to 405 KAR 16:090(5) and 18:090(5). Therefore, such ponds will be designed in accordance with SMCRA Section 515(b)(10)(B)(i).

2. The Kentucky Coal Association (KCA) asserts that OSM has not correctly incorporated the October 13, 1982 **Federal Register** (47 FR 45382–45399), in which the U.S. EPA deleted its pond design requirements. KCA argues that SMCRA Section 702(a)(3) means that OSM is not empowered to require Kentucky to mandate any pond design requirements.

The Secretary believes that KCA has misread SMCRA Section 702(a). That Section of SMCRA states only that nothing in SMCRA supersedes, amends or modifies certain laws, including the Federal Water Pollution Control Act (FWPCA). The District Court in *In re: Surface Mining Regulation Litigation*, 456 F. Supp. 1301 (D.C. 1978), held that pursuant to Section 702(a)(3) the Secretary may fill in regulatory gaps where EPA under the FWPCA has no authority to act. 456 F. Supp. at 1314. In the October 13, 1982 **Federal Register** notice, EPA revised certain of its regulations under the FWPCA regarding coal mining. While deleting pond design criteria, it adopted certain numerical effluent limitations. 47 FR at 45388. EPA deleted the design criteria in part because OSM has proposed to delete its design criteria. *Id.* at 45389 citing 46 FR 34684 (July 2, 1981). EPA states in the rulemaking that they worked closely with OSM to avoid any duplication and conflict. *Id.* at 45391. Therefore, the Secretary is able to require pond design criteria despite EPA's action.

Approval of Amendment To Partially Satisfy Condition

Accordingly, condition (i) is partially satisfied. 30 CFR 917.11 is amended to indicate approval of this program amendment. 30 CFR 917.10 incorporates approval of the corresponding amendment. The partial satisfaction of condition (i) is effective March 28, 1983.

Additional Findings

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for action directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 917

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

Accordingly, Part 917 of Title 30 is amended as set forth herein.

Dated: March 21, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 917—KENTUCKY

Accordingly, 30 CFR 917.11(i) is amended to read as follows:

§ 917.11 [Amended]

* * * * *

(i) The approval found in § 917.10 will terminate on October 31, 1983, unless Kentucky submits to the Secretary by that date copies of promulgated regulations, or otherwise amends its program to provide standards acceptable to the Secretary for the design of sedimentation ponds without emergency spillways, other than for open spillways with no embankment. Furthermore, pending completion of the above, Kentucky may not use its authority to approve sedimentation ponds designed without emergency spillways, except for open spillways with no embankment.

[FR Doc. 83-7911 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-05-M

National Park Service

36 CFR Part 50

National Capital Parks Regulations, Demonstrations, and Special Events; Correction

AGENCY: National Park Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document makes minor numbering corrections on pages 55962 and 55963 of a final rule amending § 50.19 of Title 36 of the Code of Federal Regulations concerning demonstrations and special events, as published on November 13, 1981 (46 FR 55959). The document also corrects conflicting citations contained on pages 24302 and 24306 in two final regulations amending §§ 50.19 and 50.27 of Title 36 of the Code of Federal Regulations concerning camping, as published on June 4, 1982 (47 FR 24299 and 24302).

FOR FURTHER INFORMATION CONTACT: Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-4338.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Date approved: March 15, 1983.

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

Accordingly, § 50.19 of Title 36 of the Code of Federal Regulations is corrected:

§ 50.19 [Corrected]

1. By correcting § 50.19(b) to redesignate paragraphs (b)(2)(1) through (b)(2)(5) as (b)(2)(i) through (b)(2)(v), to read as follows:

(b) * * *

(2) * * *

(i) Franklin Park. * * *

(ii) McPherson Square. * * *

(iii) U.S. Reservation No. 31. * * *

(iv) Rock Creek Park. * * *

(v) U.S. Reservation No. 46. * * *

* * * * *

2. By correcting § 50.19(d) to remove the last two sentences in paragraph (d)(1) (introductory text) and add them to the paragraph as (d)(1)(viii), to read as follows:

* * * * *

(d) * * *

(1) A fully executed prior application for the same time and place has been received, and a permit has been or will be granted authorizing activities which do not reasonably permit multiple occupancy of the particular area; in that event, an alternate site, if available for the activity, shall be proposed by the Director to the applicant; Provided, however, that the following national celebration events shall have priority use of the particular park area during the indicated period, as follows:

* * * * *

(viii) Other demonstrations or special events shall be permitted in these particular park areas to the extent that they do not significantly interfere with the National Celebration Events listed in this paragraph. No activity containing structures shall be permitted closer than 50 feet to another activity containing structures without the mutual consent of the sponsors of those activities.

* * * * *

3. By correcting § 50.19(e)(4) by changing the language "(e) (1) and (2)" to read "(e) (1) through (3)"

4. By correcting § 50.19(h) to read as follows:

* * * * *

(h) Further information on administering these regulations can be found at 47 FR 24299 (June 4, 1982) and at 47 FR 24302 (June 4, 1982).

[FR Doc. 83-7914 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Action NE 129; A-7-FRL 2302-8]

Approval and Promulgation of State Implementation Plans; Nebraska

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA takes final action in this notice to unconditionally approve State Implementation Plan (SIP) revisions in Nebraska to satisfy Part D of the Clean Air Act Amendments of 1977 (hereafter referred to as "the Act"). The SIPs were submitted by Governor Charles Thone of Nebraska to attain the primary total suspended particulate (TSP) standard in Douglas, Cass and Sarpy Counties; and the carbon monoxide (CO) standard in Lincoln and Omaha. No action is being taken at this time on the state's new source review regulations and the CO plans.

EFFECTIVE DATE: April 27, 1983.

ADDRESSES: Copies of the state submission are available during normal business hours at the following locations:

Environmental Protection Agency, Public Information and Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 69509

Lincoln-Lancaster County Air Pollution Control Agency, 2200 St. Mary's Avenue, Lincoln, Nebraska 68502

Permits and Inspection Division, Housing and Community Development Department, 1819 Farnam, Room 402, Omaha, Nebraska 68102

Lincoln-Lancaster County Planning Commission, 55 South Tenth Street, Lincoln, Nebraska 68508

Omaha-Council Bluffs Metropolitan Area Planning Agency, 7000 West Center Road, Omaha, Nebraska 68106

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

FOR FURTHER INFORMATION CONTACT: Eloise Reed, (816) 374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act Amendments of 1977 requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The requirements for approvable SIP are described in a general preamble published in the April

4, 1979, **Federal Register** (44 FR 20372) and supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). The "General Preamble" and its supplements relating to approval of implementation plans for nonattainment areas, are incorporated herein by reference.

The proposed rulemaking for the TSP nonattainment areas in Douglas, Cass and Sarpy Counties appeared in the February 6, 1981, **Federal Register** (46 FR 11312), specifying corrections which were needed to the September 25, 1980, submittal by the governor. The reader is referred to this notice for the evaluation of and rationale for the proposed actions. The notice also specified that no final action would be taken until a new source review regulation substantially the same as the draft regulation discussed in the proposed rulemaking was submitted. Receipt of the September 25, 1980, submittal and the advance notice of rulemaking were announced in the November 4, 1980, **Federal Register** (45 FR 73105).

An August 9, 1982, submittal by Governor Thone contained the new source review regulations as proposed for approval by EPA in draft form. However, the state has indicated that its new source review regulations will be revised shortly to more closely parallel federal requirements. EPA is taking no action at this time on the new source review provisions of the SIPs, and will, instead, propose action on the newest revisions concurrently with the state's public hearing process early in 1983. Final action on Part D SIP revisions for Douglas and Cass County TSP, with the exception of the new source regulations, is being taken in this notice. Final action on the CO plans for Lincoln and Omaha, and on the new source review regulations will be taken at a later date.

Final action was taken in the March 10, 1982, **Federal Register** (47 FR 10208) to revise Part 81 of the Code of Federal Regulations to reflect the new primary nonattainment areas on which today's SIP revisions are based. Sarpy County was redesignated attainment at 47 FR 10208, so a Part D SIP revision is no longer required for it.

The reader is referred to the proposed rulemaking and notices referenced above for specific background information, descriptions of the SIP submittals, the criteria for approval, details of SIP deficiencies, and the submitted corrections.

The revised regulations referred to in this notice and included in the Nebraska Rules and Regulations are:

Rule 1, "Definitions"
Rule 3, "Reporting and Operating Permits for Existing Sources; When Required"
Rule 4, "New and Complex Sources; Standards of Performance, Application for Permit When Required"
Rule 5A, "Controls for Transferring, Conveying, Railcar and Truck Loading at Rock Processing Operations in Cass County"
Rule 6, "Fuel Burning Equipment; Particulate Emission Limitations for Existing Sources"

EPA actions by plan criteria, pollutant and nonattainment area are listed below:

Demonstration of Attainment—Section 172(a)(1)

Douglas and Cass County TSP—EPA proposed approval of the Douglas and Cass County TSP plans as meeting the requirements of Section 172(a)(1). No comments were received.

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(a)(1).

Public Notice—Section 172(b)(1)

EPA proposed approval of the Nebraska SIP revisions as meeting the requirements of Section 172(b)(1). Adequate notice and proof of publication were provided.

Action—EPA approves the Nebraska SIP revision as meeting the requirements of Section 172(b)(1).

Reasonably Available Control Measures—Section 172(b)(2)

Cass County TSP—EPA proposed approval of these SIP revisions as meeting the requirements of Section 172(b)(2). Rule 5A was determined to be RACT for TSP. No comments were received on this portion of the plans.

Douglas County TSP—EPA proposed approval of the Douglas County TSP plan as meeting the requirements of Section 172(b)(2), provided draft Rule 6 was adopted and submitted to EPA as discussed in the February 6, 1981, proposed rulemaking. No comments were received on this proposed action. Rule 6 was submitted with no changes on August 9, 1982.

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(2) and incorporates revised Rules 5A and 6 into the Nebraska State Implementation Plan.

Reasonable Further Progress (RFP)—Section 172(b)(3)

Douglas and Cass Counties TSP—EPA proposed approval of the Douglas and Cass County TSP plans as meeting the requirements of Section 172(b)(3) on February 6, 1981. No comments were received.

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(3).

Emissions Inventory—Section 172(b)(4)

Douglas and Cass County TSP—EPA proposed approval of these Sip revisions as meeting the requirements of Section 172(b)(4). No comments were received.

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(4).

Emissions Growth—Section 172(b)(5)

Douglas and Cass County TSP—EPA proposed approval of these SIP revisons as meeting the requirements of Sections 172(b)(5).

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(5).

Resources—Section 172(b)(7)

Cass County TSP-EPA proposed approval of these plans as meeting the requirements of Section 172(b)(7). No public comments were received.

Douglas County TSP—EPA proposed approval of the Douglas County—Omaha TSP plan as meeting the requirements of commitment of resources, provided the state submitted evidence that the necessary funding has been committed and is available for implementation of the plan. The state submitted appropriate documentation in the August 9, 1982 submittal to EPA.

The state committed one-half manyear ($13,500) to Omaha for implementation and enforcement of nontraditional source control strategies for 1981 in a state/EPA agreement, and the City of Omaha budgeted $174,560 in 1981 for particulate control measures in the 11th and Nicholas and 24th and "O" Street nonattainment areas. The city spent $111,008.92 in 1980 on dust control in the vicinity of 11th and Locust, and street sweeping in the nonattainment areas. EPA finds good cause to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(7). No comments were received on EPA's proposed approval for this criterion.

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(7).

Schedules—Section 172(b)(8)

Douglas and Cass County TSP—EPA proposed approval of these SIP revisions as meeting the requirements of Section 172(b)(8). No comments were received on that proposed action.

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(8) of the Act.

Public, Local Government and State Legislature Involvement—Section 172(b)(9)

Douglas and Cass County TSP—EPA proposed approval of the Nebraska SIP revisions as meeting the requirements of Section 172(b)(9). No comments were received on this proposed action.

Action—EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(9) of the Act.

Commitments—Section 172(b)(10)

Douglas and Cass County TSP—EPA proposed approval of these SIP revisions as meeting the requirements of Section 172(b)(10) of the Act. No comments were received on this proposed action.

Action —EPA approves the Nebraska SIP revisions as meeting the requirements of Section 172(b)(10) of the Act.

Summary and Conclusions

EPA approves the Nebraska SIP revisions for Douglas and Cass County TSP as meeting the requirements of Part D of the Act. Sarpy County was redesignated from nonattainment to attainment for primary TSP at 47 FR 10208, and a Part D nonattainment plan is no longer required.

EPA denies the requests for eighteen-month extensions to submit SIPs to attain the secondary TSP standard. The state remains obligated to submit secondary plans for Bellevue, Louisville, Weeping Water and the applicable portions of Omaha.

Until Nebraska submits and EPA approves revised new source review regulations, the growth restrictions imposed by Section 110(a)(2)(I) of the Act remain in effect for the Douglas and Cass County primary TSP nonattainment areas. The Emissions Offset Interpretative Ruling (44 FR 3274) remains in effect in areas which are nonattainment for the secondary standard only. Emissions offsets are required for all major sources and modifications permitted prior to any approval of the secondary SIPs.

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines will be substituted on the attainment charts. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the charts. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements as well as with the new Section 172 plan requirements. Further discussion of this requirement is found in the April 9, 1980, **Federal Register** (45 FR 24152).

List of Subjects in 40 CFR Part 52

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

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection during normal business hours at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri.

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

This notice of final rulemaking is issued under the authority of Sections 110 and 301 of the Clean Air Act, as amended.

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

Dated: March 21, 1983.

John W. Hernandez, Jr.

Acting Administrator.

PART 52—[AMENDED]

1. 40 CFR Part 52 is amended by adding § 52.1420(c)(25) to read as follows:

Subpart CC—Nebraska

§ 52.1420 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(25) State plan revisions and corrections thereto to attain the National Ambient Air Quality Standards for total suspended particulate in Douglas and Cass Counties, designated as nonattainment under Section 107 of the Clean Air Act Amendments of 1977, were submitted by the Governor on September 25, 1980, and on August 9, 1982. Included in the plan are revised Rule 6, and new Rule 5A.

2. The following language is added at the end of § 52.1422 to read as follows:

§ 52.1422 Approval status.

* * * No action is taken on the new source review regulations to comply with Section 172(b)(6) and Section 173 of the Clean Air Act as amended in 1977, and 40 CFR 51.18(j).

3. Section 52.1426 is added to read as follows:

§ 52.1426 Extensions.

(a) Nebraska's request for extensions until July 1, 1980, to submit plans to attain the secondary TSP standard in Douglas, Sarpy, and Cass Counties is denied.

4. Section 52.1431 is amended by revising the Table and the Note to read as follows:

§ 52.1431 Attainment dates for national standards.

* * * * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
	Primary	Secondary	Primary	Secondary			
Metropolitan Omaha-Council Bluffs Interstate.	d	d	b	a	c	c	c.
Lincoln-Beatrice-Fairbury Interstate	b	a	c	c	c	c	c.
Metropolitan Sioux City Interstate	c	c	c	c	c	c	c.
Nebraska Intrastate	d	d	c	c	c	c	c.

Note.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan does not provide a specific date.

a. July 1975.

b. Air quality levels presently below primary standards.

c. Air quality levels presently below secondary standards.

d. December 31, 1982.

(37 FR 10877, May 31, 1972, as amended at 38 FR 12702, May 14, 1973; 39 FR 16347, May 8, 1974; 40 FR 41779, Sept. 2, 1975)

Note.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remain obligated to comply with these requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.1431.

Only portions of those AQCRs with attainment dates after July 1975 have new attainment dates under the 1977 Clean Air Act Amendments. The reader is referred to 40 CFR Part 81 for identification of the designated areas under Section 107(d) of the Act.

[FR Doc. 83-7859 Filed 3-25-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-7-FRL 2315-1]

Approval and Promulgation of Implementation Plans; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Nebraska State Implementation Plan (SIP) covering procedures to be followed by a source when excess emissions result from a startup, shutdown or malfunction. The new procedures require a source to submit information to be used by the state to determine if the excess emissions were due to an unavoidable malfunction, or if additional enforcement action is required in addition to a notice of excess emission. The new rule gives the state greater enforcement capability than malfunction provisions currently provided in the approved SIP. No comments were received on the proposed rulemaking.

EFFECTIVE DATE: This action is effective April 27, 1983.

ADDRESSES: Copies of the submittal and the EPA prepared evaluation report are available for review at the following locations:

Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, MO 64106;

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509;

Lincoln-Lancaster County Air Pollution Control Agency, 2200 St. Mary's Avenue, Lincoln Nebraska 68502;

Permits and Inspection Division, Housing and Community Development Department, 1819 Farnam, Route 402, Omaha, Nebraska 68102;

Lincoln-Lancaster County Planning Commission, 55 South Tenth Street, Lincoln, Nebraska 68508;

Omaha-Council Bluffs Metropolitan Area Planning Agency, 7000 West Center Road, Omaha, Nebraska 68106; or

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

A copy of the state submission is also available at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Mary Carter at (816) 374-3791 or FTS 758-3791.

SUPPLEMENTARY INFORMATION: On September 23, 1982, at 47 FR 42000, EPA proposed approval of new Nebraska Rule 18, "Compliance; Exceptions Due to Startup, Shutdown, or Malfunction." The new rule recognizes all instances of excess emissions as violations and requires that to mitigate the violation the source must provide information to demonstrate that the excess emissions were due to an unavoidable malfunction. The state may initiate additional enforcement action, at its discretion, after review of the submitted information, based on criteria specified in the regulation. Former Rule 18 allowed excessive emissions under certain conditions.

Nothing in the new regulation relieves the source of its obligations to attain and maintain the National Ambient Air Quality Standards during the excess emission period, nor precludes the state from initiating appropriate enforcement actions.

No comments were received on the proposed rulemaking.

EPA has determined that the new rule is consistent with EPA policy that state enforcement discretion should be used in determining whether excess emissions due to malfunction, startup or shutdown require additional enforcement action.

Action

EPA approves Rule 18 as submitted on August 9, 1982, and incorporates it into the Nebraska SIP. Previous Rule 18 is deleted.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

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

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 21, 1983.

John W. Hernandez, Jr.,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

40 CFR Part 52 is amended by adding § 52.1420(c)(26) to read as follows:

Subpart CC—Nebraska

§ 52.1420 Identification of Plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(26) New Rule 18, "Compliance; Exceptions Due to Startup, Shutdown, or Malfunction," was submitted by the Governor on August 9, 1982.

[FR Doc. 83-7863 Filed 3-25-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 83-90]

Applications for Review of Hearing Designation Orders Issued Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has revised its Rules and Regulations to provide that appeals of hearing designation orders issued under delegated authority be deferred in most instances until the time when appeals of the final Review Board Decision in the case are filed. This rule change is designed to expedite the conduct of adjudicatory proceedings.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman (202) 632-7297.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Order

In the Matter of Revision of Section 1.115(e)(3) of the Commission's Rules and Regulations, Applications for Review of Hearing Designation Orders Issued Under Delegated Authority.

Adopted: March 3, 1983.
Released: March 14, 1983.
By the Commission.

1. The Commission has determined that the prompt and orderly conduct of its adjudicatory proceedings necessitates a change in § 1.115(e)(3) of our Rules and Regulations to provide that applications for review of hearing designation orders issued under delegated authority shall be deferred until applications for review of the final Review Board Decision in the case are filed, unless the presiding Administrative Law Judge certifies such an application for review to the Commission. The revised rule permits the presiding Administrative Law Judge to certify an application for review of a designation order to the Commission if the Judge determines that the application for review involves a controlling question of law as to which there is substantial ground for difference of opinion and that immediate consideration of the question would materially expedite the ultimate resolution of the litigation. In addition, the revised rule provides that the Commission may refuse to entertain an application for review so certified and direct that objections to the hearing designation order should be deferred and raised when applications for review of the final Review Board Decision are filed.[1]

2. Authority for this revision of our Rules and Regulations is contained in Sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended.[2] Because the revision relates to a matter of procedure, the procedural and effective date provisions of Section 4 of the Administrative Procedure Act[3] are not applicable.

3. Accordingly, it is Ordered, That on the date that this Order is published in the **Federal Register** § 1.115(e)(3) of the Commission's Rules and Regulations is revised as set forth in the Appendix hereto.

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

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

PART 1—[AMENDED]

In Part 1 of Chapter I of Title 47 of the Code of Federal Regulations, § 1.115(e)(3) is revised to read as follows:

§ 1.115 Application for review of action taken pursuant to delegated authority.

* * * * *

(e)(3) Applications for review of a hearing designation order issued under delegated authority shall be deferred until applications for review of the final Review Board Decision in the case are filed, unless the presiding Administrative Law Judge certifies such an application for review to the Commission. A matter shall be certified to the Commission only if the presiding Administrative Law Judge determines that the matter involves a controlling question of law as to which there is substantial ground for difference of opinion and that immediate consideration of the question would materially expedite the ultimate resolution of the litigation. A ruling refusing to certify a matter to the Commission is not appealable. In addition, the Commission may dismiss, without stating reasons, an application for review that has been certified, and direct that the objections to the hearing designation order be deferred and raised when applications for review of the final Review Board Decision are filed. A request to certify a matter to the Commission shall be filed with the presiding Administrative Law Judge within 5 days after the designation order is released. Any application for review authorized by the Administrative Law Judge shall be filed within 5 days after the order certifying the matter to the Commission is released or such a ruling is made. Oppositions shall be filed within 5 days after the application for review is filed. Replies to oppositions shall be filed only if they are requested by the Commission. Replies (if allowed) shall be filed within 5 days after they are requested.

[FR Doc. 83-7910 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

[1] *Cf.* 28 U.S.C. 1292(b), which provides United States Courts of Appeals with authority to entertain appeals of certain interlocutory orders when the district judge states that an order, not otherwise appealable, involves a controlling question of law as to which there is substantial ground for difference of opinion and an immediate appeal from the order may materially advance the ultimate termination of the litigation.

[2] 47 U.S.C. 154 (i) and (j) and 303(r).

[3] 5 U.S.C. 553.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1169

[Ex Parte No. MC-161]

Preemption of State Regulation of Regular-Route Exit—Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Correction to final rule.

SUMMARY: At 47 FR 53291, November 24, 1982, the Commission published final rules which provided the procedures under which the Commission will process petitions filed under section 16 of the Bus Regulatory Reform Act of 1982 (49 U.S.C. 10935). That section provides statutory authority for the Commission to preempt State regulation of exit from regular-route passenger services in certain circumstances. That notice contained an inadvertent emission, which this notice corrects.

FOR FURTHER INFORMATION CONTACT: Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION:

PART 1169—[AMENDED]

§ 1169.6 [Amended]

On page 53295 of the issue of November 24, 1982, paragraph (a) of § 1169.6 contained an error. That error is corrected as follows:

In § 1169.6 (a) (4), change the period that follows the word "service" to a comma, and add the words "and (5) the" to follow that comma.

By the commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7800 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 30223-29]

Pacific Coast Groundfish Fishery

Correction

In FR Doc. 83-5013 beginning on page 8283 in the issue of Monday, February 28, 1983, make the following correction:

On page 8284, first column, first line of "DATE" the date now reading "March 1, 1983" should read "February 28, 1983".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 48, No. 60
Monday, March 28, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1040

[Docket No. AO-225-A35]

Milk in the Southern Michigan Marketing Area; Hearing on Proposed Amendments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by a cooperative association to amend the Southern Michigan milk marketing order. The proposals would provide handlers during May through August 1983 with a hauling credit from the marketwide pool on certain Class II and Class III milk transferred to unusually distant outlets for surplus disposition. The proponent cooperative has requested that these proposals be adopted on an expedited basis.

DATE: The hearing will convene April 7, 1983.

ADDRESS: The hearing will be held at the Ramada Inn, 8270 Wickham Road, Romulus, Michigan 48174 beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-7311.

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

Notice is hereby given of a public hearing to be held at the Ramada Inn, 8270 Wickham Road, Romulus, Michigan 48174 beginning at 9:30 a.m., local time, on April 7, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Southern Michigan marketing area. In view of the request for expedited action, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

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 purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to the proposals.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Michigan Milk Producers Association

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

Proposal No. 1. In § 1040.60, add paragraph (h) to read as follows:

§ 1040.60 Handler's value of milk for computing uniform price.

* * * * *

(h) During the months of May, June, July and August 1983, deduct the amount obtained by multiplying the pounds of bulk fluid milk and the pounds of condensed milk (whole and skim) which were classified either Class II or Class III and were transferred to an other order plant pursuant to § 1040.42(b)(3) or to a nonpool plant pursuant to § 1040.42(d)(2), both of which are located outside the State of Michigan, by a per hundredweight rate equal to 3.6 cents for each 10 miles or fraction thereof that such nonpool plant is located more than 150 miles, as determined by the market administrator, from the pool plant from which it is transferred. No credit should apply to the total quantity of milk so moved to a nonpool plant by a handler if any portion of the milk is assigned to Class I.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 2. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, Marvin A. Baumer, 2684 W. Eleven Mile Road, Berkley, Michigan 48072 or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture

Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Southern Michigan Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on March 22, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-7917 Filed 3-25-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 125, 225, and 356

[Docket No. RM83-40-000]

Revisions to Regulations on Retention of Records by Natural Gas Companies, Public Utilities, Licensees, and Oil Pipeline Companies

March 22, 1983.

AGENCY: Federal Energy Regulatory Commission DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations on retention of records by public utilities, licensees, natural gas companies, and oil pipeline companies ("regulated companies"). Most importantly, these proposed amendments would eliminate many categories of records from the schedules of records to be retained. The Commission also proposes other more minor changes to its regulations that clarify, update, and eliminate unnecessary burden on regulated companies. This proposed rule is part of the Commission's ongoing program to reduce and eliminate burdensome and unnecessary requirements and, if adopted, would reduce by about 35 percent the burden on regulated companies of maintaining records under the Commission's regulations.

DATES: Comments must be submitted on or before May 23, 1983. Requests for public hearing must be submitted on or before April 11, 1983.

ADDRESSES: File comments with: Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth J. Malloy, rulemaking and Legislative Analysis Section, Office of the General Counsel, 825 North Capital Street, N.E., Room 8602-A, Washington, D.C. 20426, (202) 357-8033

Elaine Dawson, Office of Chief Accountant, 825 North Capitol Street, N.E., Room 610 RB, Washington, D.C. 20426, (202) 376-9782

Notice of Proposed Rulemaking

March 22, 1983.

In the matter of revisions to regulations on retention of records by natural gas companies, public utilities, licensees, and oil pipeline companies; Docket No. RM83-40-000.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations on retention of records by public utilities, licensees, natural gas companies, and oil pipeline companies ("regulated companies"). Most importantly, these proposed amendments would eliminate many categories of records from the schedules of records to be retained. The Commission also proposes other more minor changes to its regulations that clarify, update, and eliminate unnecessary burden on regulated companies.

This proposed rule is part of the commission's ongoing program to reduce and eliminate burdensome and unnecessary requirements and, if adopted, would reduce by about 35 percent the burden on regulated companies of maintaining records under the Commission's regulations.

II. Background

A. Gas and Electric

Both the Federal Power Act (Section 301, 16 U.S.C. 825(a) (1976)) and the Natural Gas Act (Section 8, 15 U.S.C. 717g(a) (1976)) require regulated companies to keep such records as the Commission may prescribe "as necessary or appropriate for purposes of administration" of these acts.[1] In 1972, the Commission established a comprehensive scheme of record retention regulations applicable to natural gas companies (Part 225), and electric utilities and hydropower licensees (Part 125).[2] In promulgating this scheme, the Commission's goal was to develop a comprehensive regulatory system to assist regulated companies in meeting their management needs and to allow companies to satisfy the requirements of numerous regulatory agencies.[3] Accordingly, this scheme coordinated the record retention requirements of this Commission, the Nuclear Regulatory Commission (NRC), the Internal Revenue Service and state commissions.

B. Oil Pipelines

In 1977, the Commission assumed jurisdiction over the establishment of rates or charges for the transportation of oil by pipelines.[4] Section 20 of the Interstate Commerce Act, 49 U.S.C. § 20 (1976), requires oil pipeline companies to keep records that the Commission determines are necessary to effectively regulate those companies. The record retention regulations applicable to oil pipelines were transferred to the Commission from the Interstate Commerce Commission by section 705(a) of the Department of Energy Organization Act, 42 U.S.C. 7295 (Supp. IV 1980).

The Commission's policies for exercising its jurisdiction over oil pipelines are dependent on the ultimate disposition of the issues in *Williams Pipeline Company*, Docket No. OR79-1 *(Williams)*, by both the Commission and the federal courts. Hence, the Commission proposes to eliminate only those ICC-created record retention requirements that are not applicable to the regulation of oil pipelines, and to otherwise maintain the status quo. As the Commission gains more experience in oil pipeline matters it will re-examine the need for the remaining requirements as part of the ongoing program to eliminate reporting and recordkeeping requirements that are not necessary to the Commission's regulatory responsibilities.

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[1] Section 403(a)(2) of the Department of Energy Organization Act transfers these Federal Power Act and Natural Gas Act responsibilities from the Federal Power Commission to the Federal Energy Regulatory Commission. 42 U.S.C. 7172(a)(2) (Supp. IV 1980).

[2] FPC Order No. 450, Docket No. R423, issued March 14, 1972.

[3] These schedules were recommended by a task force whose members were drawn from the regulated entities. The American Gas Association and Edison Electric Institute (AGA/EEI) *Record Retention Task Force Report* (issued March 14, 1972). These recommendations were promulgated without substantive changes. Industry considers these regulations the ideal guide to the retention of all records created in a jurisdictional company's overall operations.

[4] Jurisdiction under the Interstate Commerce Act over the establishment of rates or changes for the transportation of oil by pipelines and the establishment of valuations for pipelines was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission pursuant to sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. 7155 and 7172 (Supp. IV 1980), and Executive Order No. 12,009, 3 CFR 142 (1982).

C. Regulatory Considerations

Since the promulgation of the comprehensive record retention regulations in 1972, Congress enacted the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (Supp. IV 1980). That Act expresses the intent of Congress to minimize the public's reporting burden. The General Accounting Office (GAO) reviewed the progress of five federal independent regulatory agencies, including this Commission, in minimizing the public's reporting burden under the Paperwork Reduction Act. GAO published its Report on July 7, 1981,[5] and concluded that the independent agencies could further reduce the paperwork burden on industry. GAO recommended that the independent agencies increase the effort and attention given to record retention programs, especially to revising both existing record schedules and retention periods to reflect the agencies' current needs in a clear and unambiguous manner.

In light of the Paperwork Reduction Act and the recommendations of GAO, the Commission is reconsidering its original comprehensive approach. The Commission has examined its record retention requirements to identify those record descriptions and retention periods that are vague and ambiguous, and to identify those records which the Commission does not currently need to carry out its regulatory responsibilities. These proposed changes are the result of that examination.

III. Discussion

The Commission proposes to make four types of changes to its current regulations. First, and of major importance, the Commission proposes to eliminate many categories from the schedules of records to be retained. Second, the Commission proposes to shorten the retention periods of several categories of records. Third, the proposal specifies requirements for ensuring the integrity of paper records generated by a computer. Fourth, several descriptions of records would be modified to define more precisely the records that must be retained.[6]

[5] Report to Director, Office of Management and Budget, July 7, 1981.

[6] The Commission has developed three charts which show how these proposals will affect the record retention regulation in Part 125, Part 225, and Part 356. These charts take each of the record retention schedules in the Code of Federal Regulations and shows whether each item would be retained, deleted, or modified under the proposed rule. This chart can be obtained through the Commission's Division of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426; telephone (202) 357–8118. Refer to "Record Retention Chart" and the relevant Part (Part 125—Electric, Part 225—Gas, and Part 356—Oil) when making inquiries.

A. Categories of Records Eliminated

The Commission proposes to eliminate all or part of over 100 categories of records from its retention schedules. When the Commission established these schedules in 1972, it sought to coordinate the record retention requirements of federal and state regulatory agencies. Consequently, these schedules now include records which *this* Commission does not need to fulfill its regulatory responsibilities. Contrary to its philosophy in 1972, the Commission now believes that its schedules of records should include only records for which it can demonstrate a regulatory need.

The list below shows the categories of records which the Commission proposes to eliminate entirely from both Parts 125 and 225:

Item No. and Category of Record

1. Capital stock records
2. Proxies and voting lists
3. (b) of Reports to stock holders
4. Debt security records
5. Filing with and authorizations by regulatory agencies
6. (b)(1)–(4), (c), and (d) of Organizational documents
7. (c)–(f) of Contracts and agreements
9. (a) of Automatic data processing records
12. (c) and (d) of Journal vouchers and Journal entries
16. Accounts receivable
17. Records of securities owned
18. Payroll records
19. Assignments, attachments and garnishments
20. (b) and (d)–(f) of Insurance records
21. Injuries and damages
24. Customers' service
25. Records of auxiliary and other operations
27. Personnel records
28. Employees' benefit and pension records
29. Instructions to employees and others
35. Production maps and reproductions thereof
36. (a)(2) of The original or reproductions of engineering records, drawings and other supporting data for proposed as-constructed utility facilities
40. (c) of Procurement
41. (b) of Material ledgers
42. (a), (b), (d) and (e) of Materials and supplies received and issued
43. (c) of Records of sale of scrap and materials and supplies
44. Inventories of materials and supplies
45. (a)–(g) of Customers' service applications and contracts
46. (b) of Rate schedules
47. Customers' guarantee deposits
48. Meter reading sheets and records
50. (b)–(d) of Miscellaneous billing data
52. Customers' ledgers and other records used in lieu thereof
53. Merchandise sales—Accounting and collecting
54. Collection reports and records
55. Customers' account adjustments
56. Uncollectible accounts and customers credit records
58. (c)–(f) of Statements of funds and deposits
59. (a), (b), (d), (e) and (g) of Records of deposits with banks and others
61. (c) of Statistics
63. Correspondence
66. (b) of Other miscellaneous records

This list below shows the categories of records which the Commission proposes to eliminate entirely from Part 125:

Item No. and Category of Record

22.1 (a), (b), (g), and (k) or Production-Electric (less nuclear).
23. (c)-(m), and (p) of Transmission and distribution-Electric
60. Records of receipts and disbursements
65. (b), (c)(3), and (c)(9), of Reports to Federal and State regulatory commissions

The Commission also proposes to eliminate from Part 125 nuclear production records (Item 22.2). The Nuclear Regulatory Commission (NRC) requires most of these records to be kept for NRC purposes. In light of the safety importance of these records, the Commission proposes to include under item 22.2 a reference to the NRC's record retention regulations even though the Commission would no longer itself require retention of nuclear production records.

The list below shows the categories of records which the Commission proposes to eliminate entirely from Part 225:

Item No. and Category of Record

22. (a), (c)-(e), (j), (l), (m), and (o)-(r) of Production-Gas
23. (c)-(i), and (m) of Transmission and distribution-Gas
23.1 (c) of Underground storage of natural gas
37. (b) of Contracts and other agreements relating to natural gas company records
65. (b), (c)(3), (c)(6), and (c)(9) of Reports to Federal and State regulatory commissions

The list below shows the categories of records which the Commission proposes to eliminate entirely from Part 356:

A. Corporate and General

3. Corporate election
4. (e) of Titles, franchises and authorities
5. Annual reports or statements to stockholders, file copies of
6. (d)-(f) of Contracts and agreements

B. Treasury

1. Capital stock records
2. (b)-(g) of Long-term debt records
3. Filings with an authorization by regulatory agencies
4. Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or their equivalent
5. Retired securities

6. Records of funds and deposits
7. Records of foreign exchange or commercial paper purchased

C. Financial and Accounting

3. Cash books
4. (c) and (d) of Vouchers
5. (b)-(d) of Accounts receivable

D. Property and Equipment

NOTE

1. (g) and (j) of Property records
2. (b) of Engineering records

E. Personnel and payroll

1. Personnel records
2. (c)-(j) of Payroll records

F. Insurance and Claims investigation

G. Taxes

2. Summary of taxes paid
3. Filing with taxing authorities to qualify employee benefit plans

H. Purchases and Stores

1. (b) of Material ledger
2. (b) and (c) of Inventories
3. Purchases and sales
4. Materials and supplies received and issued

I. Shipping and Agency Documents

J. Transportation

1.–11. Transportation other than oil

Item J.12 covers records relating to marine equipment, railroads and oil pipelines. The Commission proposes to eliminate references to marine equipment and railroads but to retain the part of item J. 12 that covers oil pipelines, except for sub-items (c) and (h)

K. Tariffs and Rates

2. All other copies of tariffs, classifications, division sheets and circular referred to in item 1 above.
6. Contracts and minimum rate schedules of contract motor carriers.

L. Reports and Statistics

1. (b) and (c) of Reports to Federal Energy Regulatory Commission and other regulatory bodies.
2.–5. of other reports.

M. Miscellaneous

B. Retention Periods Shortened

1. *"Life of the Corporation" Retention Period.* The Commission now uses the term "life of the corporation" as the period of retention for many records. This term is indefinite and probably results in records being kept after they cease to be of use to the Commission. Consequently, the Commission proposes to eliminate all references to "life of the corporation." In its place, the Commission proposes to substitute specific retention periods that are more closely tailored to the actual needs of the Commission. These are as follows:

(a) Some records are continously useful to the Commission for both periodic audits and documentation of a company's rate base. For these documents, the Commission proposes a "50 year" retention period. Fifty years ensures the availability of these records for auditing and documentation purposes, and removes ambiguity and vagueness on when these documents may eventually be retired. The 50 year retention period will be applied to Item 6.(a) (minute books) of §§ 125.3 and 225.3.

(b) Some records are required in individual rate cases. For these records, the Commission proposes to substitute a retention period of "six years after a final non-appealable order." Six years is sufficient time to complete the one audit necessary to ensure compliance with a specific final order. The "six years after a final non-appealable order" period will be applied to Item 6.(b)(5) (orders of regulatory commissions) of §§ 125.3 and 225.3.

(c) Some records facilitate a Commission audit conducted to ensure that the Commission's regulatory decisions are properly implemented. After an on-site audit is completed, the Commission's staff meets with company officials to discuss the results of the audit. This meeting is called an exit conference. After the exit conference, an audit report is sent to the company when issues raised by the audit are resolved. The Commission proposes that records needed for audits be "retained until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first." Two years is sufficient time to permit the Commission to take any further action necessary in light of the audit results. An audit report, on the other hand, signifies that no further action by the Commission is necessary and, therefore, there is no need for the record. This retention period will be applied to Item 3.(a) (stockholder reports) of §§ 125.3 and 225.3.

(d) Some records relate to the purchase and sale of utility property and plant. For these records, the Commission proposes a retention period of "10 years after the plant is retired." This information is needed while a plant is active and during two five-year audit cycles after plant retirement. This retention period will be applied to Item 65.(c)(7)–(8) (utility property and plant reports) of §§ 125.3 and 225.3.

(e) Some records contain financial, operating, and statistical reports required by governmental agencies. The Commission proposes to differentiate between reports required by federal agencies and those required by state agencies. For those records required by state agencies, the Commisison proposes a retention period of "retain as long as the active tariffs or rates are in effect" (Item 65.(a)(2) in §§ 125.3 and 225.3). This period is definite and ensures the records are available for Commission audits. For those records required by federal agencies, the Commission proposes that these records be "retained until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first" (Item 65.(a)(1) of §§ 125.3 and 225.3). Again, two years is sufficient time to permit the Commission to pursue issues raised by the audit, but if the audit reprt is issued during this two year period, the Commission's need for these records ends.

2. *Retention Periods Keyed to the Audit Cycle.* Natural gas companies, public utilities, and Commission licensees currently retain certain engineering records until either the records are superseded or six years after the pertinent facility is retired. In addition, these companies retain rate sheets, schedules of service, and certain contracts for the extension of service for 50 years. Since these records are only used to facilitate compliance-related audits, the Commission proposes that these records be "retained until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first." This retention period permits the Commission to take action on issues raised by the audit, and allows for the destruction of records when the Commission's need for them ends. This retention period applies to Items 36.(a)(1) (engineering records), 41.(a) (supplies on hand), 45.(h) (contracts for extension), and 46.(a) (rate schedules) of §§ 125.3 and 225.3.[7]

3. *Retention Period for Electric Production Records.* Currently, both public utilities and licensees must maintain station and system generation reports concerning electric production for 25 years (Item 22.1(e) of § 125.3). To monitor hydroelectric power production adequately, the Commission believes that station and system generation reports are needed for 25 years. However, six years is sufficient for other thermal electric power production since that period would permit at least one audit cycle to ensure compliance with the Commission's regulations and decisions. Therefore, the Commission proposes that the retention period for these reports on hydroelectric power production remain at 25 years while the retention period for generation reports concerning steam and other thermal

[7] The Commission notes, however, that certain records which will affect the determination of amortization reserves of licensed hydropower projects must still be retained until a final Commission adjudication is made. *See* § 125.2(j).

electric power production be changed to six years.

C. Amendments to Records Retention Instructions

The first proposed amendment to the instructions for records retention relates to records generated by computers (§§ 125.2(e)(1)(ii) and 225.2(e)(1)(ii)). In lieu of the certification processes normally required for microfilm records, the Commission recently permitted [8] public utilities, licensees, and natural gas companies to establish procedures for ensuring the integrity of computer output microfilm.[9] The Commission believes such procedures are necessary for all computer generated records since the Commission must have assurance that computer generated records are true representations of the information stored in a computer. This can be done through the establishment of procedures designed to ensure such integrity.

Under the proposed rule, a company must develop written, standard procedures to ensure the veracity of computer records and must include the name or title of the official responsible for validating the computer output information. In response to inquiries by industry officials, the Commission is proposing to allow either the name *or title* of the appropriate company official, rather than requiring only the name of the official. The Commission believes that the burden imposed by this requirement is minor since this procedure is already employed by most, if not all, companies that use computers.

The second proposed change corrects an error in the Commission's regulations. The current instructions applicable to regulated companies state that all film stock must meet the "current specifications of the National Bureau of Standards." Specification for film stock is not established by the National Bureau of Standards, but by the American National Standards Institute. Therefore, the Commission proposes to correct this error by substituting "American National Standards Institute" for "National Bureau of Standards" in §§ 125.2(g) and 225.2(g).

D. Miscellaneous Proposals

The Commission proposes to amend various descriptions of records or retention periods for either of two reasons. In some cases, only part of a record is needed by the Commission to meet its regulatory responsibilities. In these instances, the description is amended to include only that portion of the record needed by the Commission. In other cases, the current description or retention period is ambiguous and a more precise description is added.

(a) In §§ 125.3 and 225.3, items 41.(a) now requires the retention of "ledger sheets and card records of materials and supplies received, issued, and on hand." Since "ledger sheets" adequately meet the Commission's regulatory needs, the proposed rule would remove references to "card records."

(b) In §§ 125.3 and 225.3, item 45.(h) now requires the retention of "applications and contracts for extensions for which donations or contributions are made by customers or others." The Commission believes that it is not necessary that regulated companies retain applications or contracts for extensions for which *donations* are made. Accordingly, the proposed rule removes the reference to donations.

(c) In §356.11, item A.6 requires oil pipeline companies to retain certain contracts and agreements. In the list noted above, various types of contracts and agreements are being removed from this retention schedule. Since item A.6(g) will continue to cover the retention of contracts "not specifically provided for in this section," it must be amended so that other categories that are being eliminated are not kept under item A.6(g). Accordingly, this item will make it clear that an oil pipeline company need not retain contracts with "employees and employee bargaining groups."

(d) In § 356.11, item C.5(a) requires oil pipeline companies to retain a "record or register of accounts receivable, indexes thereto, and summaries of distribution." The Commission proposes that oil pipeline companies no longer be required to retain the indexes or summaries. The record or register of accounts receivable itself is adequate.

(e) In § 356.11, item H.1(a) requires that oil pipeline companies retain "records of material and supplies on hand." In order to clear up an ambiguity, the proposed rule adds the words "at all locations" to this item.

(f) In § 356.11, item K covers records on "tariffs and rates." The proposed rule adds a footnote to this item to make clear that the retention periods in this item begin to run from the date of a "final Commission order determining the outcome of any tariff subject to refund and/or investigation."

IV. Certification Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to prepare certain statements, descriptions and analyses of proposed rules that, if promulgated, will have "a significant economic impact on a substantial number of small entities." The Commission is not required to make such analyses if a proposed rule will not have such an impact.

Most electric utilities, natural gas companies, and oil pipeline companies may not fall within the RFA's definition of small entity.[10] Most hydroelectric licensees, on the other hand, may fall within the small entity definition. Since the record retention burden on all of these types of regulated entities would be reduced by this rule, this proposed rule would have some positive economic impact on all regulated entities, both large and small. This is an intended and important impact. The Commission does not, however, believe that this impact will necessarily be "significant," at least within the meaning of the RFA. Pursuant to section 605(b) of the RFA, therefore, the Commission certifies that this rule, if promulgated, will not have a "significant economic impact on a substantial number of small entities."

V. Comment Procedures

The Commission invites interested persons to submit written data, views, and other information concerning matters set out in this notice. All comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should refer to Docket No. RM83–40–000. An original and 14 copies should be filed. Comments must be received by the Commission no later than May 23, 1983.

All written comments will be placed in the Commission's public file and will be available for public inspection during regular business hours at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

In addition, the Commission may consider affording interested persons an opportunity for a public hearing to receive oral comments. Any interested person wishing an opportunity to appear

[8] Revisions to the Uniform Systems of Accounts and Regulations Governing the Preservation of Records, Order No. 258, Docket No. RM81–4–000, III FERC Stat. & Reg. (CCH) ¶ 30,398 at 30,285 (September 13, 1982).

[9] Computer output microfilm is a process in which information stored in a computer can be printed directly on microfilm instead of on paper.

[10] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. § 632 (Supp. IV 1980). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also* SBA's, Small Business Size Standards, 13 CFR Part 121 (1982).

to give oral comments must file with the Secretary a request for a public hearing by April 11, 1983. A notice will be published in the **Federal Register** if a public hearing will be held.

(Natural Gas Act, 15 U.S.C. 717–717w (Supp. IV 1980); Federal Power Act, 16 U.S.C. 791a–828c (Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. IV 1980); Interstate Commerce Act, 49 U.S.C. 1–27 (1976); Executive Order 12,009, 3 CFR 142 (1982); 5 U.S.C. 553 (Supp IV 1980)

List of Subjects

18 CFR Part 125

Electric power, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 225

Natural gas Reporting and recordkeeping requirements.

18 CFR Part 356

Oil pipeline companies, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Parts 125, 225, and 356, Title 18, Chapter I, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 125—[AMENDED]

PART 225—[AMENDED]

§§ 125.2 and 225.2 [Amended]

1. Sections 125.2 and 225.2 are amended, respectively, by revising paragraph (e)(1)(ii) to read as follows:

* * * * *

(e) Microform, tape and computer output certification.

(1) * * *

(ii) If a record series is a product of computer output paper or microfilm, any certification that may otherwise be required under paragraph (e)(1)(i) of this section is not required if:

(A) The series is prepared in accordance with written standard procedures developed by the company that ensure the integrity of record series that are the product of computer output; and

(B) Such procedures include the name or title of the official responsible for validating or confirming the data contained in the record series and confirming that a particular computer output record series was produced in accordance with the standard procedures.

* * * * *

2. Sections 125.2 and 225.2 are further amended in paragraph (g)(3) by removing the words "National Bureau of Standards" and inserting, in their place, the words "American National Standard Institute."

§ §125.3 and 225.3 [Amended]

3. Sections 125.3 and 225.3 are amended by removing the words "life of the corporation" or "50 years" in the retention periods column of the following items, and, in the respective places, by inserting in the retention periods column the following:

(a) In item number 3.(a), the words: "Retain until receipt of FERC audit report or two years after auditor's exist conference, whichever occurs first."

(b) In item 6.(a), the words "50 years."

(c) In item 6.(b)(5), the words "6 years after final non-appealable order."

(d) In item 46.(a), the words: "Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first."

(e) In items 65.(c)(7) and 65.(c)(8), the words "Ten years after the plant is retired. See §§ 125.2(j) and 225.2(j)."

§ 125.3 [Amended]

4. Section 125.3 is amended by removing the retention period in item 36.(a)(1) and inserting, in its place, the following:

Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.[5] See § 125.2(j).

§ 225.3 [Amended]

5. Section 225.3 is amended by removing the retention period in item 36.(a)(1) and inserting, in its place, the following:

Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.

6. Section 125.3 is further amended by revising the description and retention period of item 22.1(e) and by revising item 22.2, to read as follows:

§ 125.3 Schedule of records and periods of retention.

* * * * *

22.1 Production—Electric (less nuclear):	
* * * * *	
(e) Station and system generation reports and clearance logs:	
(1) Hydro-electric	25 years. *See* § 125.2(j).
(2) Steam and others	6 years. *See* § 125.2(j).
* * * * *	
22.2 Production—nuclear: For informational purposes, refer to the document retention requirements of the Nuclear Regulatory Commission.	

§§ 125.3 and 225.3 [Amended]

7. Sections 125.3 and 225.3 are further amended by revising the description in item 41.(a) and the description and retention period in items 45.(h) and 65.(a) to read as follows:

* * * * *

41. Material ledgers:	
(a) Ledger sheets of materials and supplies received, issued, and on hand.	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.
* * * * *	
Revenue Accounting and Collecting	
45. Customers' service applications and contracts:	
* * * * *	
(h) Contracts for extensions of service for which contributions are made by customers or others.	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.
* * * * *	
65. Reports to Federal and State regulatory commissions:	
(a) Annual financial, operating and statistical reports:	
(1) Federal agencies	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.
(2) State Commissions	Retain as long as the active tariffs or rates are in effect.
* * * * *	

8. Sections 125.3 and 225.3 are amended by removing entirely the following items (including both descriptions and retention periods): 1, 2, 3(b), 4, 5, 6(b)(1)–6(b)(4), 6(c), 6(d), 7(c)–7(f), 9(a), 12(c), 12(d), 16, 17, 18, 19, 20(b), 20(d)–20(f), 21, 24, 25, 27, 28, 29, 35, 36(a)(2), 40(c), 41(b), 42(a), 42(b), 42(d), 42(e), 43(c), 44, 45(a)–45(g), 46(b), 47, 48, 50(b)–50(d), 52, 53, 54, 55, 56, 58(c)–58(f), 59(a), 59(b), 59(d), 59(e), 59(g), 61(c), 63, and 66(b).

§ 125.3 [Amended]

9. Section 125.3 is further amended by removing entirely the following items (including both descriptions and retention periods): 22.1(a), 22.1(b), 22.1(g), 22.1(k), 23(c)–23(m), 23(p), 60, 65(b), 65(c)(3), and 65(c)(9).

§ 225.3 [Amended]

10. Section 225.3 is further amended by removing entirely the following items (including both descriptions and retention periods): 22(a), 22(c)–22(e), 22(j), 22(l), 22(m), 22(o)–22(r), 23(c)–23(i), 23(m), 23.1(c), 37(b), 65(b), 65(c) (3), 65(c)(6), and 65(c)(9).

§§ 125.3 and 225.3 [Amended]

11. [The schedule of records in § 125.3 and 225.3 would be renumbered to reflect changes made in the final rule].

PART 356—[AMENDED]

12. The "Schedule of Records and Periods of Retention" in § 356.11 is amended by revising the record descriptions in items A.6(g), C.5(a), H.(1)(a), J.12, and adding a footnote to item K, respectively, to read as follows:

§ 356.11 Schedule of Records and Periods of Retention.

* * * * *

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item No. and category of record	Retention period
A. Corporate and general	
* * * * *	
6 Contracts and agreements:	
* * * * *	
(g) Contracts, leases and agreements, not specifically provided for in this section but excluding contracts with employees and employee bargaining groups.	3 years after expiration or termination.
* * * * *	
C. Financial and Accounting	
* * * * *	
5 Accounts receivable:	
(a) Record or register of accounts receivable.	3 years after settlement.
* * * * *	
H. Purchases and Stores	
1 Material ledgers:	
(a) Records of material and supplies on hand at all locations.	2 years.
* * * * *	
J. Transportation	
* * * * *	
12 Oil and other products stocks and movement pipelines only:	
(a) Records of receipts, deliveries, pumpings, stocks, and over and short.	3 years.
(b) Run tickets showing quantities by tank measurement of meter readings of oil and other products received into and delivered from company's lines.	Do.
(c) Statements of oil and oil products consumed as fuel including quantity value, and where consumed.	Do.
(d) Statement of oil and other products lost by line breaks and leaks including quantity, value, and location of breaks and leaks.	Do.
(e) Reports of power furnished by producers: monthly reports of the quantity of oil run in connection with which power was furnished by producers, and records of payment for such power.	Do.
(f) Records of producers' property identifying ownership and location of producers' tanks or wells to which carrier's lines are connected.	3 years after disconnection.
(g) Division or other periodical inventory reports of oil and other products on hand.	3 years.
(h) Division orders: Directions received by carrier as to the division of interest and to whose account transported oil should be credited.	3 years after discontinuance.
(i) Directions received by the carrier for the transfer of division order interests from one interest owner to another.	Do.
(j) Transfer orders for the transfer of ownership of oil or other products in carrier's custody..	3 years.
K. Tariffs and Rates*	
* * * * *	

* The retention periods for records in this item begin on the date of the final Commission order determining the outcome of any tariff subject to refund and/or investigation.

13. Section 356.11 is further amended by removing entirely the following categories of records and their retention periods: A.3, A.4(e), A.5, A.6(d)–A.6(f), B.1, B.2(b)–B.2(g), B3–B.7, C.3, C.4(c), C.4(d), C.5(b)–C.5(d), D note, D.1(g), D.1(j), D.2(b), E.1, E.2(c)–E.2(j), F., G.2, G.3, H.1(b), H.2(b), H.2(c), H.3, H.4, I., J.1–J.11, K.2, K.6, L.1(b), L.1(c), L.2–L.5, and M.

14. [The schedule of records in § 356.11 would be renumbered to reflect changes made in the final rule.]

[FR Doc. 83-7866 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 142

Withdrawal of Proposed Customs Regulations Amendments Relating To Importations of Certain Large Machines

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws the proposed amendments to the Customs Regulations relating to the importation of large machines. That proposal would have allowed an importer to request in writing that a large machine, which because of its immense size and other factors is imported in separate shipments, be classified and dutiable as a complete machine under its particular item number in the Tariff Schedules of the United States (TSUS). After consideration of the comments received in response to the proposal and further review, Customs has determined to continue its present practice whereby parts of components of a complete machine which are imported in separate shipments are classifiable and dutiable as parts or components, rather than as a complete machine. The action is necessary because of legal and operational objectional objections to the proposal.

DATE: Withdrawal effective March 28, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

In response to a petiton from a member of the public regarding the tariff classification of Fourdrinier papermaking machines, Customs published a notice in the **Federal Register** on April 30, 1982 (47 FR 18621), proposing to amend the Customs Regulations relating to the importation of certain large machines, using the Fourdrinier papermaking machine as exemplar. As proposed, Parts 141 and 142, Customs Regulations (19 CFR Parts 141, 142), would have been amended to allow an importer of very large machine components arriving in separate shipments to request in writing before the initial shipment that the entire (assembled) mechine be classified under the specific TSUS item for the particular machine. If an importer of a large machine imported in separate shipments chose to request Customs to classify the machine as an entirety, the importer would have had to deposit estimated duties covering the entered value of the entirety at the time of filing the entry summary for the initial shipment.

It was acknowledged that the proposal would have constituted a broad extension of the judicial "doctrine of entireties" due to the unusual circumstances presented by certain large machines, as described in the notice. The purpose of the proposal was to obtain comments on whether the amendment was needed to afford the full meaning and effect to the specific provision in the TSUS for the named large machine.

The present Customs Service practice is to treat large machines imported in several shipments as a series of separate articles for the purpose of tariff classification. The practice is in accord with Customs interpretation of the longstanding judicial "doctrine of entireties," that merchandise imported in more than one shipment cannot be classified as an entirety, but rather that each shipment is classified separately. Tariff classification and duty rate are determined shipment by shipment. As a result, a very large machine imported in several shipments will not be classified under a named provision in the TSUS for the machine. Rather, each part or component will be classified under the TSUS item that most specifically describes the particular part or component.

Discussion of Comments

A total of 51 comments were received in response to the notice, 45 of which favored the proposal. However, almost all of the commenters who favored the proposal in principle, also noted specific objections—especially relating to the criteria for application of the proposal to a large machine and the deposit of estimated duties on the entire machine when the initial shipment is entered. In addition, other problems identified by commenters included Customs approval of an importer's request to use the procedure, the application of the rule to unliquidated entries, the scope to the proposal in regard to whether large articles or entities other than machines should be covered, the requirement of a single entry summary document for the entire machine, and creation of a procedure to capture necessary import statistics.

Six commenters were opposed to the proposal. One commenter simply made a general objection, while five others gave specific reasons for their opposition. The negative comments focused on two broad areas: Assertions that the proposal was legally impermissible due to the doctrine of entireties, and the economic consequences of the proposed action.

Customs and the Treasury Department have carefully reviewed each of the comments. Although the majority of the commenters did favor the proposal in principle, the commenters in opposition point out persuasive administrative and legal impediments to adoption of the proposal. Customs believes those negative comments have considerable merit. First, there would be great difficulty in verifying the total weight (*i.e.*, a minimum of 1,000 tons) of a complete machine at the time the first importation was made. Moreover, inasmuch as it is difficult in many instances to determine what components actually comprise a "complete" machine, it would be administratively impossible to determine when replacement and/or accessory parts are sought to be imported. Second, and more important, the overwhelming weight of legal and administrative precedent concerning the doctrine of entireties and the obligation to classify and assess duty on merchandise in its condition as imported, leads Customs to conclude that the proposal, if adopted, would have been of doubtful legality.

Accordingly, after consideration of the comments received, and further review of the matter, it has been determined to withdraw the proposal.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Treasury Department participated in its development.

Approved:

John M. Walker, Jr.,

Assistant Secretary of the Treasury

March 3, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-7915 Filed 3-25-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Ch. I

[CGD 83-008]

Guide Clearance for Bridges Across Navigable Waters of the United States

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed adoption of Guide Clearances.

SUMMARY: The Coast Guard is issuing this notice to advise the public of the proposed adoption of Guide Clearances for bridges across certain navigable waters of the United States, as listed herein, and to give opportunity for public comment thereon. Guide Clearances are considered by the Coast Guard in the permitting of bridges. This list will benefit permit applicants by informing them of the clearances for each waterway listed which will ordinarily receive favorable consideration under the bridge permitting process as providing for the reasonable needs of navigation.

DATE: Comments must be received on or before April 27, 1983.

ADDRESS: Comments should be submitted to, and are available for examination at, the Marine Safety Council (G-CMC), Room 4402, Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G-CMC).

FOR FURTHER INFORMATION CONTACT: Mr. A. T. Meschter, Project Manager, G-NBR/14, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426-0942.

SUPPLEMENTARY INFORMATION: Guide Clearances are defined as the navigational clearances established by the Coast Guard for a particular navigable water of the United States which will ordinarily receive favorable consideration under the bridge permitting process (33 CFR Chapter 1, Subchapter J) as providing for the reasonable needs of navigation. The program of establishing Guide Clearances was instigated by the Corps of Engineers and later transferred to the Coast Guard. Under the Corps, Guide Clearances were called "Standard Clearances"; but the Coast Guard has since adopted the name "Guide Clearances" as more descriptive of the fact that these clearances are advisory, rather than mandatory. They are not intended to be regulatory in nature or to form a legal basis for approving or denying a bridge permit application. Under the circumstances of a particular case, greater or lesser clearances for a proposed bridge may be required or approved as meeting the reasonable needs of navigation for that particular location. For example, the particular character of the waterway and topography at the proposed location may justify a departure from the clearances specified for the waterway in the list of Guide Clearances.

Over the years, some of the Guide Clearances have become obsolete or inadequate and need to be deleted or revised. Therefore, the following list is divided into three parts to indicate which clearances are proposed for continuance, which are proposed for revision or deletion, and which are proposed for addition. The listings are generally arranged geographically from Maine to Texas to Washington.

Comments on the proposed list are particularly invited. Comments recommending additional listings will be retained for future consideration.

A. *Existing Guide Clearances proposed to be continued:*

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
1. Fore River, ME				
—Mouth to head of Navigation	Fixed	400	150	MHW.
	Draw RR	100	10	MHW.

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
	Draw Hwy	100	20	MHW.
	Vert. Lift	100	150 (open)	MHW.
2. Panobscot River, ME				
—Mouth to Bangor	Fixed	400	135	MHW.
	Draw RR	150	10	MHW.
	Draw Hwy	150	20	MHW.
	Vert. Lift	150	135 (open)	MHW.
—Mouth to Gardiner	Fixed	400	135	MHW.
	Draw RR	70	10	MHW.
	Draw Hwy	70	20	MHW.
	Vert. Lift	70	135 (open)	MHW.
—Gardiner to Augusta	Fixed	400	135	
	Draw RR	100	10	
	Draw Hwy	100	20	
	Vert. Lift	100	135 (open)	
4. Connecticut River, CT, MA above Hartford			20	Above River Level 16 feet.
5. Hudson River, NY				
—George Washington Bridge to northern limits of Irvington.	Fixed	1,500	180	MHW. 8 feet Stage Albany Gage.
—Irvington to northern limits of Newburg	do	1,500	155	Do.
—Newburg to Castleton	do	700	138	Do.
—Castleton to Albany	do	700	135	Do.
—Albany to US Dam Troy	Fixed	500	135	Do.
	Vertical. Lift	300	135 (open)	Do.
			40 (closed)	Do.
	Bascule	300	40 (closed)	Do.
	Swing Span	180	40 (closed)	Do.
—U.S. Dam Troy to Waterford		180	15 feet, 5 inches	Do.
6. Severn River, MD				
—Mouth to Spa Creek	Drawbridge	250	10 (closed)	MHW.
—Spa Creek to Round Bay	do	70	10 (closed)	MHW.
—Round Bay to head of tidewater	do	40	10 (closed)	MHW.
7. South River, MD				
—Mouth to mile 5	Fixed	70	55	MHW.
—Mile 5 to head of tidewater	Drawbridge	50	10 (closed)	MHW.
8. Bohemia River, MD				
—Mouth to head of tidewater	do	40	10 (closed)	MHW.
9. Chester River, MD				
—Mouth to mile 26	do	150	10 (closed)	MHW.
—Mile 26 to mile 33	do	60	10 (closed)	MHW.
—Mile 33 to mile 42	do	40	10 (closed)	MHW.
10. Elk River, MD				
—Mouth to Back Creek	do	100	10 (closed)	MHW.
—Back Creek to Elkton	do	60	10 (closed)	MHW.
11. Sassafrass River, MD				
—Mouth to Georgetown	do	70	10 (closed)	MHW.
—Georgetown to head of tidewater	do	40	10 (closed)	MHW.
12. Choptank River, MD				
—Mouth to Cambridge	do	150	10 (closed)	MHW.
—Cambridge to Dover	do	100	10 (closed)	MHW.
—Dover to Denton	do	80	10 (closed)	MHW.
—Denton to Greensboro	do	40	10 (closed)	MHW.
13. Nanticoke River, DE, MD				
—Mouth to Quantico Creek	do	150	10 (closed)	MHW.
—Quantico Creek to Broad Creek River	do	80	10 (closed)	MHW.
—Broad Creek River to Seaford	do	60	10 (closed)	MHW.
—Seaford to Concord	do	40	10 (closed)	MHW.
14. Wicomico River, MD				
—Mouth to White Haven	do	150	10 (closed)	MHW.
—White Haven to Salisbury Prong	do	100	10 (closed)	MHW.
—Salisbury Prong to head of tide water	do	50	10 (closed)	MHW.
15. Pocomoke River, MD				
—Mouth to Pocomoke City	do	100	10 (closed)	MHW.
—Pocomoke City to Snow Hill	do	70	10 (closed)	MHW.
—Snow Hill to head of tide water	do	40	10 (closed)	MHW.
16. Potomac River, MD, DC				
—Mouth to Haines Point	Fixed	250	135	MHW.
	Drawbridge	250	75	MHW.
			135 (open)	MHW.
17. Patuxent River, MD				
—Mouth to Sheridan Point	Fixed	130	135	MHW.
	Drawbridge	130	10	MHW.
			135 (open)	
—Sheridan Point to Nottingham	Fixed	100	10	MHW.
			100 (open)	
18. James River, VA				
—Mouth to City Point	Fixed or V.L	350	145	MHW.
	Swing or Bascule	350	50 (closed)	MHW.
—City Point to Richmond	Fixed	400	145	MHW.
—Richmond to head of navigation	do	400	120	MHW.
19. Appomattox River, VA				
—Mouth to Petersburg	Drawbridge	80	15 (closed)	MHW.
20. Rappahannock River, VA				
—Mouth to Bowlers Rock light	Fixed	250	100	MHW.
	Drawbridge	250	75	MHW.
			100 (open)	
—Bowlers Rock light to Jones Point	Fixed	150	100	MHW.
	Drawbridge	150	10	MHW.
			100 (open)	
—Jones Point to Port Royal	Fixed	100	100	MHW.
	Drawbridge	100	10	MHW.
			100 (open)	

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
21. Black Water River, VA				
—Mouth to SAL RR bridge	Drawbridge	60	5 (closed)	MHW.
—SAL bridge to Southern	Fixed	34	15.5	MHW.
22. Nottoway River, VA				
—Mouth to Smith Ferry Bridge	Drawbridge	60	5 (closed)	MHW.
—Smith Ferry Bridge to Peters Bridge	Fixed	40	8 (closed)	MHW.
23. Atlantic Intracoastal Waterway, VA, NC				
—Norfolk to Little River, SC	Swing ro Bascule	90	5 (closed) RR	MHW.
			15 (closed) Hwy	
		120 in exposed locations		
24. Cape Fear River, NC				
—Wilmington mile 30 to mile 39	Fixed or V.L	120	135	Maximum HW.
	Swing or Bascule	120	5 (closed)	Do.
—Mile 39 to Fayetteville	Fixed or V.L	100	70	Do.
	Swing or Bascule	100	5 (closed)	Do.
25. Northeast River, NC				
—Mouth to mile 2.75	Fixed or V.L	150	135	Do.
	Swing or Bascule	150	5 (closed) RR	Do.
			30 (closed) Hwy	Do.
—Mile 2.75 to Lanes Ferry	Fixed or V.L	60	50	Do.
	Swing or Bascule	60	5 (closed)	Do.
26. Neuse River, NC				
—New Bern to 2 miles above	Fixed or V.L	80	100	
	Swing or Bascule	80	5 (closed) RR	Do.
			15 (closed)	
27. Chowan River, NC				
—Mouth to Winton	Drawbridge	80	5 (closed)	MHW.
—Winton to Source	do	60	5 (closed)	MHW.
28. Meherrin River, NC				
—Mouth to Murfreesboro	do	60	5 (closed)	MHW.
29. Tar River, NC				
—Mouth to 2 miles above Washington	Fixed or V.L	80	100	Maximum HW.
	Swing or Bascule	80	5 (closed) RR	
			10 (closed) Hwy	
—2 miles above Washington to Greenville	Fixed or V.L	60	50	
	Swing or Bascule	60	5 (closed)	
30. Roanoke River, NC				
—Mouth to Hamilton	Drawbridge	80	5 (closed)	MHW.
—Hamilton to Waldon	Fixed	40	8	MHW.
31. Atlantic Intracoastal WW				
—Little River, SC to Miami, FL	Fixed or V.L	90	65.0	MHW.
	Swing or Bascule	90	21 (closed)	MHW.
32. Cross Florida Barge Canal, FL	Fixed or V.L	150	65.0	MHW.
33. Okeechobee Waterway, FL	do	90	55.0	MHW.
34. Escambia River, FL	do	90	40.0	OHW.
35. Apalachicola River, FL, GA	do	150	35.6	OHW.
36. Chattahoochee River, AL, GA, FL	do	150	35.6	OHW.
37. Coosa River, AL, GA	do	150	42.5	OHW.
38. Flint River, GA	do	150	35.6	OHW.
39. Alabama River, AL	do	250	42.5	OHW.
40. Black Warrior River, AL	do	200	52.0	OHW.
41. Mobile River, AL	do	300	125	OHW.
42. Locust Fork of the Black Warrior River, AL	do	200	49.0	OHW.
43. Mulberry Fork of the Black Warrior River, AL	do	200	49.0	OHW.
44. Tennessee-Tombigbee River including the entire Tombigbee River, AL	do	300	52.0	Normal Pool
			40.0	above 1 percent flowline whichever greater.
45. West Pearl River, MS	do	125	35.0	OHW.
46. East Pearl River, MS	do	125	35.0	OHW.
47. Jefferson-Shreveport TX, LA	do	240	52.0	2 percent Flowline.
48. Calcasieu River Ship Channel, LA	do	300	135	MHW.
49. Atchafalaya River, LA				
—Berwick Bay	do	535	73.0	MHW.
—Above Berwick Bay	do	180	50.0	MHW
50. Houston Ship Channel, TX				
—Up to mile 47.2	do	500	175	2 percent Flowline.
—Above mile 47.2	do	400	135	Do.
51. Trinity River, TX	do	300 feet between pier faces 250 feet between fenders.	52	2 percent flowline or top of conservation pools in reservoirs.
51.a. Sabine Neches Waterway, Sabine River and Neches River, TX.	Fixed	600	155	MHW.
52. Gulf Intracoastal WW, FL to TX				
—Apalachee Bay to Pensacola Bay	Fixed or V.L	150	65.0	MHW.
—Pensacola Bay to Brownsville, TX, except Port of New Orleans, LA.	do	125	75.0	MHW.
—Port of New Orleans	do	125	100	MHW.
53. Allegheny River, PA				
—Elmsworth Pool	Fixed		40	Pool at dam crest.
—Dam to East Brady	do		47	Do.
54. Monongahela River, PA				
—Elmsworth Pool	do		40	Pool at dam crest.
—Dam to Fairmont, WV	do		47	Normal Pool.
55. Ohio River, PA to IL	do		69	2 percent Flowline.
			55	Normal Pool.
56. Tennessee River, KY to TN	do	300	57	

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
			47	Regulated HW.
57. Clinch River, TN				
—Mouth to mile 48	do	200	42	Normal Pool.
			32	Regulated HW.
—Mile 48 to mile 67	do	200	35	Normal Pool.
58. Emery River, TN				
—Mouth to mile 12.1	do	200	42	Normal Pool.
			32	Regulated HW.
—Mile 12.1 to mile 13	do	200	35	Normal Pool.
59. Hiwassee River, TN	do	200	42	Normal Pool.
			32	Regulated HW.
60. Little Tennessee River, TN				
—Mouth to mile 18.5	do	200	42	Normal Pool.
			32	Regulated HW.
—Mile 18.5 to mile 29	do	200	35	Normal Pool.
61. Telleco River, TN				
—Mouth to mile 9	do	200	35	Normal Pool.
62. Cumberland River, TN, KY				
—*Barkley Reservoir*				
Main Stream	do	300	57	Normal Summer Pool.
			40	Max. Flood Regulated.
Major Tributaries	do		42	Normal Summer Pool.
			25	Max. Flood Regulated.
Secondary Reservoir Channels	do		15	Normal Summer Pool.
Shallow Draft Channels	do		6	Normal Summer Pool.
—*Cheatham Reservoir*				
Main Stream	do	300	57	Normal Summer Pool.
			40	Max. Flood Regulated.
Major Tributaries	do		42	Normal Summer Pool.
			25	Max. Flood Regulated.
Secondary Reservoir Channels	do		15	Normal Summer Pool.
Shallow Draft Channels	do		6	Normal Summer Pool.
—*Old Hickory Reservoir*				
Main Stream	do	300	57	Normal Summer Pool.
			40	Max. Flood Regulated.
Major Tributaries	do		42	Normal Summer Pool.
			40	Max. Flood Regulated.
Secondary Reservoir Channels	do		15	Normal Summer Pool.
Shallow Draft Channels	do		6	Normal Summer Pool.
—*Cordell Hull Project*				
Main Stream	do	300	57	Normal Summer Power Discharge.
			40	Max. Flood Regulated.
Major Tributaries	do	200	42	Normal Summer Power Discharge.
			25	Max. Flood Regulated.
Secondary Reservoir Channels	do	50	30	Normal Summer Power Discharge.
			15	Max. Flood Regulated.
Secondary Tributaries	do	50	30	Normal Summer Power Discharge.
Minor Channels and Tributaries	do		5	Normal Summer Power Discharge.
—*J. Percy Priest Reservoir*				
Main Stream	do	100	40	Minimum Power Pool.
			30	Top of Power Pool.
			15	Max. Flood Regulated.
Secondary Embayments and Channels	Fixed	50	40	Minimum Power Pool.
			30	Top of Power Pool.
			15.5	Max. Flood Regulated.
Minor Secondary	Fixed		25	Minimum Power Pool.

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
Embayments and Channels			15	Top of Power Pool
63. Chicago River, IL				
—Main Branch	Bascule	170	17.9 (closed)	LWD 576.8.
—North Branch	Fixed	40.4		LWD 576.8.
	Bascule	40.4	6.6 (closed)	LWD 576.8.
—North Branch Canal	do	56.9	8.4 (closed	LWD 576.8.
—South Branch	do	125		LWD 576.8.
	Vertical Lift	125	120	LWD 576.8.
			10.5 (closed)	LWD 576.8.
—West Fork South Branch	Bascule	140.3	22.4 (closed)	LWD 576.8.
South Fork South Branch	Fixed	90.0	12.1	LWD 576.8.
64. Chicago Sanitary and Ship Canal, IL	Swing	45	4.4 (closed)	LWD 576.8.
65. Indiana Harbor Canal, IN				
—Main Channel	Bascule	61.7	5.4 (closed)	LWD 576.8.
—Calumet River Branch	Fixed	34.2	3.2	LWD 576.8.
—Lake George Branch	do	64.4	5.6	LWD 576.8.
66. Calumet River, IL				
—Main River	Fixed or V.L	135.7	125, 7.3 (closed)	LWD 576.8.
67. Little Calumet River West, IL	Fixed	52	13.4	LWD 576.8.
68. Little Calumet River East, IL, IN	do	200	29.4	LWD 576.8.
69. Grand Calumet River, IL	do	12	5.5	LWD 576.8.
70. Calumet Sag Channel, IL	do	168.5	24.38	LWD 576.8.
71. Buffalo River, NY	do	91.0		LWD 568.6.
	Bascule	91.0	12.4	LWD 568.6.
72. Cuyahoga River, Oh	Vertical Lift	100		LWD 568.6.
			8.4 (closed)	LWD 568.6.
73. Maumee River, OH	Fixed	110		LWD 568.6.
	Swing	110	17.3 (closed)	LWD 568.6.
74. Rouge River, MI	Bascule	123	6.4 (closed)	LWD 568.6.
75. Saginaw River, MI	Fixed	66		LWD 576.8.
	Swing	66	7.8 (closed)	LWD 576.8.
76. Grand River, MI	Swing	54	9.8 (closed)	LWD 576.8.
77. Milwaukee River, WI	Vertical Lift	50		LWD 576.8.
	Swing	50	7.3	LWD 576.8.
78. Menomonee River and Canals, WI, MI	Swing	45	7.9 (closed)	LWD 576.8.
79. Kennickinnic River, WI	Fixed	50		LWD 576.8.
	Swing		8.1 (closed)	LWD 576.8.
80. Manitawoc River, WI	Fixed	60.8		LWD 576.8.
	Swing		6.0 (closed)	LWD 576.8.
81. Fox River, WI				
—Mouth to Depore	Swing	75	7.5 (closed)	LWD 576.8.
—Above DePere	Swing	59.8	3.5 (closed)	LWD 576.8.
82. East River, WI	Fixed	40		LWD 576.8.
	Swing		6.0 (closed)	LWD 576.8.
83. Illinois River, IL				
—Mouth to upper limits of Peoria	Fixed or V.L	Width of Channel	45	Extreme HW Navigation Season.
			50	Except 1 Day Nav. Season.
			55	98% Nav. Season.
			63	Pool Stage 6,000 cfs.
Peoria to Starved Rock	Fixed or V.L	Width of Channel	44	Extreme HW Navigation Season.
			45	Except 1 day Nav. Season.
			50	95% of Nav. Season.
			56	Pool Stage 8,000 cfs.
—Starved Rock to Joliet	Fixed or V.L	Width of channel	35	Extreme HW Nav. Season.
			47	Pool Stage 8,000 cfs.
—Joliet to east end	do	Width of	35	Computed Hw.
84. Mississippi River				
—Upper limits New Orleans to Baton Rouge, Harbor, LA.	Fixed	750 feet Main Span, 500 feet Auxiliary Span, 2 Auxiliary Spans required.	133	Max. River level 1 ft. below controlling level grade at Red River and corresponding elevations below.
—Baton Rouge Harbor to Vicksburg, MS	do	750 feet Main Span, 500 feet Auxiliary Span, 1 Auxiliary Span required.	64	Max. River level 1 ft. below controlling level grade at Red River and corresponding elevations below.
—Vicksburg to Cairo, IL	do	750 feet Main Span, 500 feet Auxiliary Span, 1 Auxiliary Span required.	55	Max. River level 1 ft. below controlling level grade at Red River and corresponding elevations below.

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
—Cairo to Illinois River, IL	do		64	Normal Pool
			55	above 2% flowline.
—Illinois River to Lafayette Rd., St. Paul, MN	do		60	Normal Pool
			52	above 2% flowline.
85. St. Croix River, MN				
—Mouth to Stillwater, MN	do		60	Normal Pool
			52	above 2% flowline.
86. Minnesota River, MN				
—Mouth to Chaska	do		55	Normal Pool
			30.8	above 1,881 HW elevation.
87. Kaskaskia River, IL	do		25	Along line joining the 2% flowline at Athens or elevation at mouth equal to 38' on St. Louis gage.
88. Missouri River				
—Mouth to Gavins	do		52	Above 2%
—Gavins Point Dam to Montana	do		30	Flowline above bridge reference plane.
89. Santa Bois Creek, OK	do		50	Above 2% Flowline.
90. Bayou Macon, LA				
—Mouth to mile 35.4	do		50	Above Maximum HW prior to 30 June 1931.
91. Boeuf River, LA				
—Mouth to mile 45.8	do		50	Above Maximum HW prior to 30 June 1931.
92. Yazoo River, MS				
—Mouth to Greenwood	do	180	43	Above Project Flowline.
	Movable	125		
93. Tallahatchee River, MS				
—Mouth to Panda	Fixed	120	12	Maximum HW prior to 30 June 1931.
	Movable	70		
a. Coldwater River, MS				
—Panda Quitman to Yazoo Pass	Fixed	40	5	Maximum HW prior to 30 June 1931.
	Movable	40		
b. Steel and Washington Bayou, MS				
—Mouth to Lake Washington	Fixed	80	15	Maximum HW prior to 30 June 1931.
	Movable	125		
c. Big Sunflower River, MS	Fixed	180	50	Maximum HW prior to 30 June 1931.
94. Black River, LA	Fixed	180	50	Maximum HW prior to 30 June 1931.
	Movable	130		
95. Colorado River, CA, AZ, NV	Fixed Removable Span	50	25	Normal HW.
		50	27	Do.
96. Chehalis River, WA				
—Mouth to East City Units of Cosmopolis	Fixed or V.L.	150	135	MHHW.
	Swing or Bascule	150	12 (closed) Hwy	MHHW.
			8 (closed) RR	MHHW.
—Cosmopolis to Montesano	Movable	125	8 (closed)	MHHW.
—Above Montesano	Fixed	100	8	MHHW.
97. Tacoma Harbor, WA				
Hylebos and City Waterway above	Fixed or V.L.	150	135	MHHW.
—11th St. Tacoma	Swing or Bascule	150	30 (closed) Hwy	MHHW.
			7 (closed) RR	MHHW.
—Puyallup Waterway above 11th St. Tacoma	Fixed or V.L. Swing	125	20 (closed) Hwy	MHHW.
		125	5 (closed) RR	MHHW.
98. Duwamish Waterway, WA				
—Mouth to 14th Avenue	Fixed or V.L.	150	135	MHHW.
	Swing or Bascule	150	30 (closed) Hwy	MHHW.
			7 (closed) RR	MHHW.
—Above 14th Avenue	Fixed or V.L.	125	135	MHHW.
	Swing or Bascule	125	30 (closed) Hwy	MHHW.
			7 (closed) RR	MHHW.
99. Coos Bay, OR				
—Mouth to Smiths Mill	Fixed	500	135	6 feet Stage on marsh field gage.
	V.L or Bascule	225	125	
100. Columbia and Snake River System, OR, WA, ID				
—Mouth to NP&S RR Bridge at Vancouver	Fixed	1,000	180	25 feet on Portland Gage.
—Bonneville to Dallas	do	450	135	600 kf PS Stage.
—Dallas to Kennewick, Mile 328	do	400	60	2% flowline.
Mile 328 to mile 469	do	400	50	Do.
—469 to mile 474.5	do	250	50	Do.
—Snake River mouth to mile 148.8	do	400	60	Do.
—Clearwater River mouth to head of pool	do	400	60	Do.

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
101. Willamette River				
—Mouth to Broadway Bridge	do	1,000	180	25 foot stage Portland gage.
—Broadway Bridge to Rose Island Bridge	do	500	140	25 foot stage Portland gage.
	Movable	250	40 (closed)	25 foot stage Portland gage.
B. *Existing Guide Clearances proposed to be revised:*				
1.a. *Existing:*				
Gulf Intracoastal Waterway, FL				
—Apalachee Bay to Tampa Bay	Fixed or V.L.	150	65	MHW.
	Swing or Bascule			
b. *Amended:*				
Gulf Intracoastal Waterway, FL				
—Apalchee Bay to Tampa Bay	Fixed or V.L.	90	65	MHW.
	Swing or Bascule	90	21 (closed)	MHW.
—Tampa Bay to Caloosahatchee River	Fixed or V.L.	90	65	MHW.
	Swing or Bascule	90	21 (closed)	MHW.
2.a. *Existing:*				
Wacamaw River, NC, SC				
—Intracoastal Waterway to Red Bluff	Fixed or V.L.	60	50	MLW.
	Swing or Bascule	60	5 (closed)	Maximum HW.
b. *Amended:*				
Wacamaw River, NC, SC				
—Intracoastal Waterway to mile 41.5	Fixed or V.L.	90	35	MLW.
	Swing or Bascule	90	10 (closed)	Maximum HW.
—Mile 41.5 to mile 67	Fixed or V.L.	60	35	MLW.
	Swing or Bascule	60	10 (closed)	Maximum HW.
3.a. *Existing:*				
Santee River, SC	Fixed or V.L.	100	70	MLW.
	Swing or Bascule	100	5 (closed)	Maximum HW.
Cooper River, SC	Fixed or V.L.	500	135	Do.
—Mouth to Goose Cr	Swing or Bascule	500	25 (closed)	Do.
Santee-Cooper Project, SC				
—Cooper River above Charleston Harbor	Fixed or V.L.	100	50	MHW.
	Swing or Bascule			MHW.
West Branch Cooper	Fixed or V.L.	100	50	HW (+8.5 MSL).
River and Tailrace Canal, SC	Swing or Bascule			
Penopolis Reservoir, SC				
—Diversion Canal and Santee Reservoir to a point near the head of the Santee River where the bank full stage is higher than the maximum pool level.	Fixed or V.L.	100	50	Maximum Pool elevation +75 MSL.
	Swing or Bascule			
—Thence to head of Santee River and Congaree River.	Fixed or V.L.	100	50	HW.
	Swing or Bascule			
Congaree River, SC				
—Mouth to Columbia	Fixed or V.L.	100	70	MLW.
b. *Amended:*				
Santee-Cooper Project, SC				
—Cooper River above Charleston Harbor	Fixed or V.L.	100	50	MHW.
	Swing or Bascule	100	10 (closed)	MHW.
—West Branch Cooper River, SC and Tailrace Canal	Fixed or V.L.	100	50	HW (+8.5 MSL).
	Swing or Bascule	100	10 (closed)	
Penopolis Reservoir, SC				
—Diversion Canal and Santee Reservoir to a point near the head of the Santee River where the bank full stage is higher than the maximum pool elevation.	Fixed or V.L.	100	50	Maximum Pool elevation +75 MSL.
	Swing or Bascule	100	10 (closed)	
—Thence to confluence of Santee and Congaree River.	Fixed or V.L.	100	50	HW.
	Swing or Bascule	100	10 (closed)	HW.
Congaree River, SC				
—Mouth to mile 46	Fixed or V.L.	100	50	MLW.
	Swing or Bascule	100	10 (closed)	Maximum HW.
—Mile 46 to mile 48	Fixed or V.L.	100	35	MLW.
	Swing or Bascule	100	10 (closed)	Maximum HW.
4.a. *Existing:*				
Shipyard River, SC	Fixed or V.L.	100	125	MHW.
	Swing or Bascule	100	25 (closed)	MHW.
b. *Amended:*				
Shipyard River, SC	Delete			
5.a. *Existing:*				
Ashley River, SC	Fixed or V.L.	120	135	Maximum HW.
	Swing or Bascule	120	25 (closed)	Do.
b. *Amended:*				
Ashley River, SC	Delete			
6.a. *Existing:*				
Savannah River, GA				
—Savannah Sugar to Savannah Lumber Co	Fixed or V.L.	100	100	Maximum HW.
—Savannah Lumber to Augusta, GA (13th Street Bridge).	do	100	70	MLW.
b. *Amended:*				
Savannah River, GA				
—From upper limit Savannah Harbor Project to New Savannah Bluff Lock and Dam.	do	150	55	MLW.
7.a. *Existing:* Altamaha River, Oconee River and Ocmulgee River, GA		60	50	MLW.
	Swing or Bascule	60	5 (closed)	Maximum HW.
b. *Amended:*				
Altamaha River, GA	Fixed or V.L.	80	30	MLW.
	Swing or Bascule	80	10 (closed)	Maximum HW.
Oconee River, GA	Fixed or V.L.	75	30	MLW.
	Swing or Bascule	75	10 (closed)	Maximum. HW.
Ocmulgee River, GA	Fixed or V.L.	60	30	MLW.

Waterway	Bridge type	Horizontal clearance (feet)	Vertical clearance (feet)	Reference plane
	Swing or Bascule	60	10 (closed)	Maximum HW.
8.a. *Existing:*				
Flint River, GA	Fixed or V.L.	150	35	OHW.
b. *Amended:*				
Flint River, GA	Delete			
9.a. *Existing:*				
Chattahoochee River, GA	Fixed or V.L.	150	35	OHW.
b. *Amended:*				
Chattahoochee River, GA	Delete			
10.a. *Existing:*				
Coosa River, GA	Fixed or V.L.	150	35	OHW.
b. *Amended:*				
Coosa River, GA	Delete			
11.a. *Existing:*				
St. Johns River, FL	Fixed or V.L.			
Confluence with Barge Canal to Sanford, FL	Swing or Bascule	90	5(closed)	MHW.
b. *Amended:*				
St. Johns River, FL	Fixed or V.L.	90	45	MHW.
Confluence with Barge Canal to Sanford, FL	Swing or Bascule	90	10 (closed)	MHW.
12.a. *Existing:*				
Hillsborough River, FL				
—Mouth to Garcia Ave.	Swing or Bascule	80	15 (closed)	MHW.
—Garcia to Nebraska Ave.		60	10 (closed)	MHW.
—Nebraska Ave. to First Dam		50		MHW.
b. *Amended:*				
Hillsborough River, FL	Delete			
B. *New Guide Clearances proposed to be added:*				
1. Atlantic Intracoastal Waterway				
—Miami to Key West	Fixed or V.L.	90	65	MHW.
	Swing or Bascule	90	21 (closed)	MHW.
2. Gulf Intracoastal Waterway				
—Tampa Bay to Caloosahatchee River	Fixed or V.L.	90	65	MHW.
	Swing or Bascule	90	21 (closed)	MHW.
3. Miami River, FL				
—Mouth to mile 5.5	Fixed or V.L.	90	75	MHW.
	Swing or Bascule	90	25 (closed)	MHW.
4. Columbia Slough, OR	Fixed or V.L.	80	39	MHW.
	Swing or Bascule	80	30 (closed)	MHW.

Dated: March 8, 1983.

R.A. Bauman, Rear Admiral, U.S. Coast Guard

Chief, Office of Navigation.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Parts 3-7, 3-16, and 3-57

Miscellaneous Amendments to the HHS Procurement Regulations

AGENCY: Department of Health and Human Services.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is proposing to amend its procurement regulations by revising and updating the general provisions for use in fixed price and cost-reimbursement type contracts (HHS-314, -315, -315A, and -316) and related miscellaneous amendments. The revisions will result in the consolidation of all additions, removals and revisions to the general provisions. The effect of the amendment will be the updating of the Department's general provisions.

DATE: Comments must be received by April 27, 1983.

ADDRESS: Any person or organization wishing to submit data, views or comments pertaining to the proposed regulations may do so by filing them with Norman Audi, Division of Procurement Policy, OPAP-OPAL-OASMB-OS, Room 539H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201; (202-245-6154).

FOR FURTHER INFORMATION CONTACT: Norman Audi (202-245-6154).

SUPPLEMENTARY INFORMATION: The proposed revisions are changes to the existing general provisions for contracts in Forms HHS-314, -315, -315A and -316. The changes include: (1) Updating the general provisions to include clauses which are required by either OMB Circular or FPR Temporary Regulations. These clauses are: Disputes, Patent Rights (Small Business Firms and Nonprofit Organizations), Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, Disabled Veterans and Veterans of the Vietnam Era; and Employment of the Handicapped; (2) Revising the Definition of Project Officer to indicate that the project officer is not authorized to receive or act upon the contractor's notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause; (3) Revising the Accounts, Audit and Records clause to conform to the times for retention of records to the times set forth in the Examination of Records by Comptroller General clause. This is changed to assure consistency; (4) Deleting all references to the Office of Education; (5) Proposing an HHS modification to the Patent Rights (Small Business Firms and Nonprofit Organizations) (March 1982) which requires that the title to inventions by other than small business or domestic nonprofit subcontractors flow to the prime contractor. This is consistent with the longstanding Department policy in its Institutional Patent Agreements; (6) Revising the Allowable Cost and Payment clause in form HHS-315A to prohibit Independent Research and Development (IR&D) costs. This is consistent with the Department's longstanding contract policy. The Allowable Cost, Fixed Fee and Payment clause in form HHS-316 is revised to prohibit IR&D costs otherwise expressly provided for in the contract. Since virtually all research and development funded by the Department is sponsored research, the basic prohibition applies. However, there may be rare instances when this would not be the case. In those instances advance agreements would be required before any IR&D would be allowed; (7) Revising the daily rate of $100 to $150 when approval must be obtained by the contracting officer in the Services of Consultants clause. The

lower rate has been in effect for a number of years and is raised to reflect inflation; (8) Adding a new clause entitled Advertising of Awards; and (9) Correcting Typographical errors.

The Provisions of these proposed amendments are issued under 5 U.S.C. 301, 40 U.S.C. 486(c).

List of Subjects in Parts 3-7, 3-16 and 3-57

Government procurement.

It is proposed to amend 41 CFR Chapter 3 in the manner set forth below:

Dated: March 17, 1983.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

PART 3-7—[AMENDED]

§§ 3-7.5022 and 3-7.5023 [Reserved]

§§ 3-7.5029 and 3-7.5030 [Reserved]

1. Subpart 3-7.50 of Part 3-7, Contract Clauses is amended by removing and resereving § 3-7.5022, *Withholding of contract payments* and § 3-7.5023, *Excusable delays* and by removing § 3-7.5029, *Final decisions on audit findings*, and § 3-7.5030, *Utilization of small and disadvantaged business.*

PART 3-16—[AMENDED]

2. Part 3-16, Procurement Forms is amended to add § 3-16.000, *Scope of part*, and to remove Subparts 3-16.2, Forms for Negotiated Supply Contracts, and 3-16.8, Miscellaneous Forms.

§ 3-16.000 Scope of part.

This part prescribes the forms and formats for use by HHS in connection with the procurement of supplies, nonpersonal services and construction.

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Subpart 3-16.9—Illustration of Forms

3. section 3-16.950-314 of Subpart 3-16.9 of Part 3-16 is amended as follows:

A. The title and center heading is revised to read:

§ 3-16.950-314 Form HHS-314 (Rev.——), General Provisions for Negotiated Fixed Price Research and Development Contract.

General Provisions for Negotiated Fixed-Price Research and Development Contract

B. Clause 1. Definitions is revised to read:

Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. the Project officer is not authorized to issue any instructions or directions which afect any increases or decreases in the scope of work or which would result in the increase or decrease of the price of this contract or a change in the delivery dates or performance period of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

C. Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by th Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Officer's decision.

D. Clause 3. Payment is revised to read:

3. Payments

(Text of this clause is set forth in FPR 1-7.302-2.)

E. Clause 4. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

4. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1-7.103-3.)

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F. Clause 6. Pricing of Adjustments is revised to read:

6. Pricing of Adjustments

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any provision of this contract, such costs shall be in accordance with the applicable cost principles and procedures set forth below:

Principles	Types of organizations
(a) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2).	Commercial.
(b) Subpart 1-15.3 of the Federal Procurement Regulations (41 CFR 1-15.3).	Educational.
(c) Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6).	Nonprofit.
(d) Subpart 1-15.7 of the Federal Procurement Regulations (41 CFR 1-15.7).	State, local or federally recognized Indian tribal government.
(e) Appendix E to 45 CFR Part 74	Hospitals.

G. Clause 7. Accounts, Audit, and Records is amended as follows:

(1) Subparagraph (c)(1) is revised to read:

(1) until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, and

(2) Paragraph (d) is amended by removing $2,500" and adding "$10,000".

(3) The note following paragraph (d) is removed in its entirety.

H. Clause 8. Changes is revised to read:

8. Changes

(Text of this clause is set forth in FPR 1-7.304-1.)

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I. Clause 10. Default is revised to read:

10. Default

(This clause is not applicable if the contract is awarded on the basis of no-profit to an educational or nonprofit institution):

(Text of this clause is set forth in FPR 1-8.710.)

J. Clause 11. Termination for Convenience of the Government is revised to read:

11. Termination for the Convenience of the Government

(The following clause is applicable if the contract is with an educational or nonprofit institution on a no-fee or no-profit basis):

11. Termination for the Convenience of the Government

(Text of this clause is set forth in FPR 1-8.704-1.)

OR

(The following clause is applicable if a profit has been contemplated by the Contractor):

11. Termination for the Convenience of the Government

(Text of this clause is set forth in FPR 1-8.701.)

K. Clause 12. Government Property is revised to read:

12. Government Property

(If this contract is with a profitmaking organization, the following clause is applicable):

12. Government Property

(Text of this clause is set forth in FPR 1-7.303-7(a).)

OR

(In contracts for which the price is not based on: (1) Adequate price competition, (2) established catalog or market prices of commerical items sold in substantial quantities to the general public, or (3) prices set by law or regulations and (4) the price does not include any charges or reserve for insurance (including self insurance) covering damage to Government property, substitute paragraph (g) in FPR 1-7.303-7(b) for paragraph (g) in FPR 1-7.303-7(a).)

OR

(The following clause is applicable when the contract is without fee or profit and is with an educational or nonprofit institution):

12. Government Property (Fixed-Price, Nonprofit)

(Text of this clause is set forth in FPR 1-7.303-7(d).)

L. Clause 15. Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

15. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1-7.103-4.)

M. Clause 16. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "16 A. Copyright and Publication" in its entirety.

N. Clause 17. Patent Rights is revised to read:

17. Patent Rights

(If this contract is with a small business firm, university, or nonprofit organization where a purpose is to perform experimental, developmental, or research work, the following clause is applicable):

17. Patent Rights (Small Business Firms and Nonprofit Organizations) (March 1982)

(a) *Definitions.* (1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firms" means a small business concern as defined at Section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 15 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.*

(1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical details to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication land, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided.* That in any case where publication, on sale of public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief, of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the

Department of Health and Human Services, upon written request, title to any subject invention: (i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c) above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c) above: *Provided, however,* That if the Contractor has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceedings on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c) above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Department except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign counry may be revoked or modified at the discretion of the Department to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d) above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief on the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provided the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of their, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The Contractor will include in all other subcontracts, regardless of tier, for experimental, developmental or research work the following patent rights clause:

The Contractor hereby agrees to report fully and promptly to (Prime Contractor)————any invention conceived or first actually reduced to practice in performance of this contract (hereinafter referred to as "such invention(s)", and to assign all right, title and interest in and to such invention to (Prime Contractor)————or its designee.

In addition, the Contractor agrees to furnish the following materials, disclosures and reports: (i) Upon request, such duly executed instruments (Prepared by the (Prime Contractor)———— or its designee) and such other papers as are deemed necessary to vest in the (Prime Contractor)———— or its designee the rights granted under this clause and enable the (Prime Contractor)———— or its designee to apply for and prosecute any patent application, in any country, covering such invention.

(ii) Interim reports on the first anniversary of this contract where extended or renewed and every year thereafter listing all such inventions made during the period whether or not previously reported or certifying that no inventions were conceived or first actually reduced to practice during the applicable period.

(iii) Prior to final settlement of this contract, a final report listing all such inventions, including all those previously listed in interim reports, or certifying that no inventions were conceived or first actually reduced to practice under the contract.

(3) In the case of subcontracts, at any tier, when the prime award with the Department was a contract (but not a grant or cooperative agreement), the agency, subcontrator, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may

reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceeding undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercialy feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that: (1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that: (1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of: (i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use license are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

(l) *Communications.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

OR

(If this contract is with a commercial organization and the above clause entitled "Patent Rights (Small Business Firms and Non profit Organizations (March 1982)" is not applicable, the following clause is applicable):

17. Patent Rights—Deferred (Long Form)

(Text of this clause is set forth in FPR 1-9.107-5(a) except that paragraph (b) of that clause shall be replaced with paragraph (b) in FPR 1-9.107-5(c).)

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O. Clause 19. Inspection is revised to read:

19. Inspection

(When the primary objective of the contract is the delivery of drawings, designs, or reports, the following clause is applicable):

19. Inspection

(Text of this clause is set forth in FPR 1-7.302-4(b).)

OR

(When the primary objective of the contract is the delivery of end items other than drawings, designs, or reports, the following clause is applicable):

19. Inspection

(Text of this clause is set forth in FPR 1-7.302-4(a).)

P. Clause 20. Federal Reports Act is amended in the first sentence by removing "question" and adding "questions" and by adding "or clause 42—Excusable Delays, as applicable." to the end of the last sentence.

Q. Clause 21. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11."

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R. Clause 25. Equal Opportunity is revised to read:

25. Equal Opportunity

(Text of this clause is set forth in FPR 1-12.803-2.)

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S. Clause 30. Utilization of Small Business Concerns is revised to read:

30. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern: (i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S.

Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

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T. Clause 32. Utilization of Minority Business Enterprises is revised to read:

32. Utilization of Women-Owned Business Concerns (Over $10,000)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" mean all women business owners.

U. Clause 33. Payment of Interest on Contractor's Claims is revised to read:

33. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

(v) Clause 34. Listing of Employment Openings is revised to read:

34. Disabled Veterans and Veterans of the Vietnam ERA

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirement in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and parttime employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor propose to fill pursuant to a customary and

traditional employer-union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

W. Clause 37. Employment of the Handicapped is revised to read:

37. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(c) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

X. Clause 38. Standards of Work is revised to read:

38. Standards of Work

(Text of this clause is set forth in FPR 1-7.302-3.)

Y. Clause 39. Competition in Subcontracting is revised to read:

39. Competition in Subcontracting

(Text of this clause is set forth in FPR 1-7.202-30.)

* * * * *

Z. Clause 41 is added as follows:

41. Excusable Delays

(This clause is applicable if the contract is awarded on the basis of no-profit to an educational or nonprofit institution): (a) Except with respect to failure of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless: (1) The supplies or services to be furnished by the subcontractor were obtainable from other sources, (2) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (3) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he/she shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.)

AA. Clause 42 added as follows:

42. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

4. Part 3-16 is further amended by amending § 3-16.950-315 as follows:

A. The title and center heading are revised to read:

§ 3-16.950-315 For HHS-315 (Rev. ——), General Provisions for Negotiated Cost-Reimbursement Contract with Educational Institutions.

General Provisions for Negotiated Cost-Reimbursement Contract with Educational Institutions

B. Clause 1. Definitions is revised to read:

1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the

Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which affect any increases or decreases in the scope of work or which would result in the increase or decrease of the cost of this contract or a change in performance period of this contract. In addition, the Project Officer is not authorized to receive or act upon the Contractor's notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

C. Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Officer's decision.

D. Clause 3. Limitation of Cost is revised to read:

3. Limitation of Cost

(Text of this clause is set forth in FPR 1-7.202-3(a).)

E. Clause 4. Allowable Cost and Payment is revised to read:

4. Allowable Cost and Payment

(Text of this clause is set forth in FPR 1-7.402-3(b) (1) through (5).)

F. Clause 5. Negotiated Overhead Rates is amended by removing "Allowable Cost," in paragraph (a) of each of the three clauses and adding "Allowable Cost and Payment", and by removing the introductory paragraph and designation for clauses (i), (ii) and (iii) and adding instructions and title for each of the three clauses as follows:

(The following provisions shall be applicable when postdetermined rates are used):

5. Negotiated Overhead Rates—Postdetermined

* * * * *

(The following provisions shall be applicable when predetermined rates are used):

5. Negotiated Overhead Rates—Predetermined

* * * * *

(The following provisions shall be applicable when fixed rates subject to carryforward adjustments are used):

5. Negotiated Overhead Rates—Fixed

* * * * *

G. Clause 6. Standards of Work is revised to read:

6. Standards of Work

(Text of this clause is set forth in FPR 1-7.302-3.)

H. Clause 7. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

7. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1-7.103-3.)

* * * * *

I. Clause 10. Accounts, Audits, and Records is amended as follows:

(1) The title is revised to read "Accounts, Audit, and Records".

(2) Subparagraph (c)(1) is revised to read:

(1) until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, and

(3) Paragraph (d) is amended by removing "$2,500" and adding "$10,000".

(4) The note following paragraph (d) is removed in its entirety.

* * * * *

J. Clause 15. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "15. Copyright and Publication" in its entirety.

K. Clause 18, Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

18. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1-7.103-4.)

* * * * *

L. Clause 20, Patent Rights—Deferred (Short Form) is revised to read:

20. Patent Rights (Small Business Firms and Nonprofit Organizations) (March, 1982)

(Where a purpose of the contract is to perform experimental, developmental, or research work, the following clause is applicable):

(a) *Definitions.* (1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business

concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 13 CFR 121.3–12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.* (1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided,* That in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the Department of Health and Human Services, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c), above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c), above: *Provided, however,* That if the Contractor has filed a patent application in a country after the times specified in (c), above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceedings on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Department except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Department to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions and decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to: (i) Establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d), above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief of the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all

subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provide the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The Contractor will include in all other subcontracts, regardless of tier, for experimental, developmental or research work the following patent rights clause:

The Contractor hereby agrees to report fully and promptly to (Prime Contractor) ———— any invention conceived or first actually reduced to practice in performance of this contract [hereinafter referred to as "such invention(s)", and to assign all right, title and interest in and to such invention to (Prime Contractor) ———— or its designee.

In addition, the Contractor agrees to furnish the following materials, disclosures and reports:

(i) Upon request, such duly executed instruments (Prepared by the (Prime Contractor) ———— or its designee) and such other papers as are deemed necessary to vest in the (Prime Contractor) ———— or its designee the rights granted under this clause and to enable the (Prime Contractor) ———— or its designee to apply for and prosecute any patent application, in any country, covering such invention.

(ii) Interim reports on the first anniversary of this contract where extended or renewed and every year thereafter listing all such inventions made during the period whether or not previously reported or certifying that no inventions were conceived or first actually reduced to practice during the applicable period.

(iii) Prior to final settlement of this contract, a final report listing all such inventions, including all those previously listed in interim reports, or certifying that no inventions were conceived or first actually reduced to practice under the contract.

(3) In the case of subcontracts, at any tier, when the prime award with the Department was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceeding undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that: (1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field or use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education.

(l) *Communications.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

M. Clause 21. Key Personnel is revised to read:

21. Key Personnel

(Text of this caluse is set forth in FPR 1-7.304-6.)

N. Clause 22. Litigation and Claims is amended as follows:

(1) The first sentence is amended by removing "Allowable Cost." and adding "Allowable Cost and Payment".

(2) The third sentence is amended by removing "or" after policy and adding "of".

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O. Clause 24. Payment of Overtime Premium is revised to read:

24. Payment for Overtime Premium

(Text of this clause is set forth in FPR 1-7.202-29.)

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P. Clause 26. Federal Reports Act is amended to add the following sentence to the end of the clause:

26. Federal Reports Act

* * * Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with Clause No. 47. Excusable Delays.

Q. Clause 27. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11".

R. Clause 28. Services of Consultants is amended in paragraph (b) by removing "$100" and adding "$150".

* * * * *

S. Clause 32. Equal Opportunity is revised to read:

32. Equal Opportunity

(Text of this clause is set forth in FPR 1-12.803-2.)

T. Clause 33. Convict Labor is revised to read:

33. Convict Labor

(Text of this clause is set forth in FPR 1-12.204.)

U. Clause 34. Officials not to benefit is revised to read:

34. Officals Not To Benefit

(Text of this clause is set forth in FPR 1-7.102-17.)

* * * * *

V. Clause 37. Utilization of Small Business Concerns is revised to read:

37. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

* * * * *

W. Clause 39. Utilization of Minority Business Enterprises revised to read:

39. Utilization of Women-Owned Business Concerns (Over $10,000)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concerns means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" mean all women business owners.

X. Clause 40, Payment of Interest on Contractor's Claims revised to read:

40. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

Y. Clause 41. Listing of Employment Openings is revised to read:

41. Disabled Veterans and Veterans of the Vietnam Era

(a) The Contractor will not the discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive orders or regulations regrading nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openinigs which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listings would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organzation (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders to the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

Z. Clause 43. Competition in Subcontracting is revised to read:

43. Competition in Subcontracting

(Text of this clause is set forth in FPR 1-7.202-30.)

* * * * *

AA. Clause 45. Employment of the Handicapped is revised to read:

45. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant order of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulation, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions

will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

BB. Clause 46 is added as follows:

46. Excusable Delays

(a) Except with respect to failures of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless: (1) The supplies or services to be furnished by the subcontractor were obtainable from other sources, (2) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (3) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he/she shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

CC. Clause 47 is added as follows:

47. Final Decisions on Audit Findings

For the purpose of issuing final decisions under the Disputes Article of this contract concerning monetary audit findings, the Contracting Officer shall be that person with ultimate responsibility for making that decision in accordance with chapter 1-105, Resolution of Audit Findings, of the Department's Grants Administration Manual.

DD. Clause 48 is added as follows:

48. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

5. Part 3-16 is further amended by amending § 3-16.950-315A as follows:

A. The title and center heading are revised to read:

§ 3-16.950-315A Form HHS-315A (Rev.——), General Provisions for Negotiated Cost-Reimbursement Contract With Nonprofit Institutions Other Than Educational Institutions.

General Provisions for Negotiated Cost-Reimbursement Contract With Nonprofit Institutions Other Than Educational Institutions

B. Clause 1. Definitions is revised to read:

1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer, and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which affect any increases or decreases in the scope of work or which would result in the increase or decrease of the cost of this contract or a change in performance period of this contract. In addition, the Project Officer is not authorized to receive or act upon the Contractor's notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

(c) Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certificate that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief, and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Office's decision.

D. Clause 3. Limitation of Costs is revised to read.

3. Limitation of Costs

(Text of this clause is set forth in FPR 1-7.202-3(a).)

E. Clause 4. Allowable Cost and Payment is amended by removing paragraph (a) and adding the following:

(a) For the performance of this contract, the Government shall pay to the Contractor:

(1) The fixed fee, if any, as may be provided for in the Schedule; and

(2) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with the terms of this contract and with the applicable cost principles in effect on the date of this contract:

(i) 45 CFR Appendix E for hospitals; or

(ii) Subpart 1-15.7 of the Federal Procurement Regulations (41 CFR 1-15.7 for

State, local and federally recognized Indian tribal governments; or

(iii) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2) for nonprofit organizations identified in § 1-15.603-3, except that costs of Independent Research and Development and its proportionate share of indirect costs shall not be allowed; or

(iv) Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6) for nonprofit organizations other than those identified in § 1-15.603-3. In addition, the following shall apply:

(A) *Bid and proposal costs.* Bid and proposal costs are the immediate costs of preparing bids, proposals, and applications for potential Federal and non-Federal grants, contracts, and agreements, including the development of scientific, cost, and other data needed to support the bids, proposals and applications. Bid and proposal costs of the current accounting period are allowable as indirect costs. Bid and proposal costs of past accounting periods are unallowable in the current period. However, if the organization's established practice is to treat these costs by some other method, they may be accepted if they are found to be reasonable and equitable. Bid and proposal costs do not include independent research and development costs covered by the following paragraph, or presaward costs covered by Paragraph 33 of Attachment B to OMB Circular A-122 (see § 1-15.603-2).

(B) *Independent research and development costs.* Independent research and development is research and development conducted by an organization which is not sponsored by Federal or non-Federal grants, contracts, or other agreements. Independent research and development shall be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development. The costs of independent research and development, including its proportionate share of indirect costs, are unallowable.

* * * * *

F. Clause 5. Negotiated Overhead Rates is revised to read:

5. Negotiated Overhead Rates

(The following clause shall be applicable when postdetermined rates are used):

5. Negotiated Overhead Rates—Postdetermined

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment", the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than six (6) months after the close of its fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles set forth in Clause No. 4—"Allowable Cost and Payment", as in effect on the date of the contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify: (1) The agreed final rate, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the contract, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively: (1) Provisional rates may, at the request of either party, be revised by mutual agreement, and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates specified in the contract shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(g) Submission of proposed provisional and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his/her duly authorized representative, and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his/her duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e) above.

OR

(The following clause shall be applicable when fixed rates subject to carryforward adjustments are used):

5. Negotiated Overhead Rates—Fixed

(a) Notwithstanding the provisions of the clause of this contract entitled, "Allowable Cost and Payment" the allowable indirect costs under this contract shall be obtained by applying negotiated fixed overhead rates for the applicable period(s) to bases agreed upon by the parties, as specified below. A negotiated fixed rate(s) is based on an estimate of the costs which will be incurred during the period for which the rate(s) applies. When the application of the negotiated fixed rates against the actual base(s) during a given fiscal period produces an amount greater or less than the indirect costs determined for such period, such greater or lesser amount(s) will be carried forward to a subsequent period.

(b) The Contractor, as soon as possible but no later than six (6) months after the close of its fiscal year, or such other period as may be specified in the contract, shall submit to the Secretary, or his/her duly authorized representatives, with a copy to the cognizant audit activity, a proposed fixed overhead rate or rates based on the Contractor's actual cost experience during the fiscal year, including adjustment, if any, for amounts carried forward together with supporting cost data. Negotiation of fixed overhead rates, including carry-forward adjustments, if any, by the Contractor and the Secretary , or his/her duly authorized representatives, shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6), as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify: (1) The agreed fixed overhead rates, (2) the bases to which the rates apply, (3) the fiscal year, unless the parties agreed to a different period, for which the rates apply, and (4) the specified items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of fixed overhead rates for any fiscal year or different period agreed to by the parties, the contractor shall be reimbursed either at the rates fixed for the previous fiscal year or other period or at biling rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rate for that fiscal year or other period are established.

(f) Any failure of the parties to agree on any fixed overhead rate or rates or to the amount of any carry forward adjustment under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period specified in the contract, the parties fail to agree to a fixed overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates Postdetermined" clause set forth in Section 1-3.704-2(a) of the Federal Procurement Regulations, as in effect on the date of this contract.

(g) Submission of proposed fixed, provisional, and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his/her duly authorized representative; and agreements on fixed, provisional, and/or final overhead rates entered into between the Contractor and the Secretary or his/her duly authorized representatives, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e), above.

G. Clause 6. Standards of Work is revised to read:

6. Standards of Work

(Text of this clause is set forth in FPR 1-7.302-3.

H. Clause 7. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

7. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1-7.103-3)

* * * * *

I. Clause 10. Accounts, Audit, and Records is amended as follows:

(1) Subparagraph (c)(1) is revised to read:

(1) until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, and

(2) Paragraph (d) is amended by removing "$2,500" and adding "$10,000".

(3) The note following paragraph (d) is removed in its entirety.

* * * * *

J. Clause 15. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "15. Copyright and Publication" in its entirety.

* * * * *

K. Clause 18. Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

18. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1-7.103-4.)

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L. Clause 20. Patent Right—Deferred (Short Form) is revised to read:

20. Patent Rights (Small Business Firms and Nonprofit Organizations (March, 1982)

(Where a purpose of the contract is to perform experimental, developmental, or research work, the following clause is applicable):

(a) *Definitions.* (1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) on the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor contains title, the Federal Government shall have non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.* (1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it is writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent know at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided,* That in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any stautory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the Department of Health and Human Services, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c), above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c), above: *Provided, however,* That if the Contractor has filed a patent application in a country after the times specified in (c), above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contact was awarded. The license is transferable only with the approval of the Department except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Department to the extent the Contractor, its

licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d), above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The Contractor shall instruct such employees through agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief of the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provide the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The Contractor will include in all other subcontracts, regardless of tier, for experimental, developmental or research work the following patent rights clause:

The Contractor hereby agrees to report fully and promptly to (Prime Contractor) any invention conceived or first actually reduced to practice in performance of this contract (hereinafter referred to as "such invention(s)", and to assign all right, title and interest in and to such invention to (Prime Contractor) or its designee.

In addition, the Contractor agrees to furnish the following materials, disclosures and reports:

(i) Upon request, such duly executed instruments (Prepared by the (Prime Contractor)———— or its designee) and such other papers as are deemed necessary to vest in the (Prime Contractor)———— or its designee the rights granted under this clause and to enable the (Prime Contractor)———— or its designee to apply for and prosecute any patent application, in any country, covering such invention.

(ii) Interim reports on the first anniversary of this contract where extended or renewed and every year thereafter listing all such inventions made during the period whether or not previously reported or certifying that no inventions were conceived or first actually reduced to practice during the applicable period.

(iii) Prior to final settlement of this contract, a final report listing all such inventions, including all those previously listed in interim reports, or certifying that no inventions were conceived or first actually reduced to practice under the contract.

(3) In the case of subcontracts, at any tier, when the prime award with the Department was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceeding undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) if this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that: (1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the datae of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

(l) *Communications.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

M. Clause 21. Key Personnel is revised to read:

21. Key Personnel

(Text of this clause is set forth in FPR 1-7.304-6.)

N. Clause 22. Litigation and Claims is amended in the first sentence by removing "Allowable Cost." and adding"Allowable Cost and Payment".

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O. Clause 24. Payment of Overtime Premium is revised to read:

24. Payment for Overtime Premium

(Text of this clause is set forth in FPR 1-7.202-29.)

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P. Clause 26. Federal Reports Act is amended to add the following sentence to the end of the clause:

26. Federal Reports Act

* * * Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with Clause No. 47—Excusable Delays.

Q. Clause 27. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11".

R. Clause 28. Services of Consultants in amended in paragraph (b) by removing "$100" and adding "$150."

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S. Clause 33. Convict Labor is revised to read:

33. Convict Labor

(Text of this clause is set forth in FPR 1-12.204.)

T. Clause 34. Officials Not To Benefit is revised to read:

34. Officials Not To Benefit

(Text of this clause is set forth in FPR 1-7.102-17.)

* * * * *

V. Clause 37. Utilization of Small Business Concerns is revised to read:

37. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

* * * * *

V. Clause 39. Utilization of Minority Business Enterprises is revised to read:

39. Utilization of Women-Owned Business Concerns (Over $10,000.)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women mean all women business owners.

W. Clause 40. Payment of Interest on Contractor's Claim is revised to read:

40. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government

shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

X. Clause 41. Listing of Employment Openings is revised to read:

41. Disabled Veterans and Veterans of the Vietnam Era

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed by excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should incude covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor, issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietman era for employment, and rights of applicants and employees.

(l) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(M) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,1000 or more less exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each sucontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

* * * * *

Y. Clause 45. Employment of the Handicapped is revised to read:

45. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employee and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provision of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

Z. Clause 46 is added as follows:

46. Excusable delays

(a) Except with respect to failure of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of the contract, unless: (1) The supplies or services to be furnished by the subcontractor were obtainable from other sources, (2) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources and (3) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he/she shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.)

AA. Clause 47 is added as follows:

47. Final Decision on Audit Findings

For the purpose of issuing final decisions under the Disputes Article of this contract concerning monetary audit findings, the Contracting Officer shall be that person with ultimate responsibility for making that decision in accordance with Chapter 1-105, Resolution of Audit Findings, of the Department's Grants Administration Manual.

BB. Clause 48 is added as follows:

48. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

6. Part 3-16 is further amended by amending § 3-16.950-316 as follows:

A. The title and center heading are revised to read:

§ 3-16.950-316 Form HHS-316 (Rev. ——), General Provisions for Negotiated Cost-Plus-A-Fixed-Fee Contract.

General Provisions for Negotiated Cost-Plus-A-Fixed-Fee Contract

B. Clause 1. Definitions is revised to read:

1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services; and the term "his/her duly authorized representative" means any person, persons, or board authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer, and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which affect any increases or decreases in the scope of work or which would result in the increase or decrease of the cost of this contract or a change in performance period of this contract. In addition, the Project Officer is not authorized to receive or act upon the Contractor's notification of a revised cost estimate pursuant to the Limitation of Cost or Limitation of Funds clause of this contract.

(d) The term "Department" means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

C. Clause 2. Disputes is revised to read:

2. Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith, the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification

shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000, or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000 the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall proceed diligently with the performance of the contract in accordance with the Contracting Officer's decision.

D. Clause 3. Limitation of Costs is revised to read:

3. Limitation of Costs

(Text of this clause is set forth in FPR 1-7.202-3(a).)

E. Clause 4. Allowable Cost, Fixed Fee and Payment is amended to add the following paragraph (h) to read:

(h) Independent research and development cost, including its proportionate share of indirect cost, shall be unallowable unless otherwise expressly provided for in the contract.

F. Clause 5. Negotiated Overhead Rates is amended as follows:

(1) The first sentence under (a) is amended to remove "Allowable Cost and Fixed Fee," and add "Allowable Cost, Fixed Fee and Payment".

(2) Paragraph (c) is revised to read:

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles set forth in Clause No. 4—"Allowable Cost, Fixed Fee and Payment", as in effect on the date of this contract.

(3) The last sentence in paragraph (e) is amended to remove "or" and add "of".

G. Clause 6. Standards of Work is revised to read:

6. Standards of Work

(Text of this clause is set forth in FPR 1-7.302-3.)

H. Clause 7, Accounts, Audit, and Records is amended as follows:

(1) Subparagraph (c)(1) is revised to read:

(1) until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, and

(2) Paragraph (d) is amended by removing "$2,500" and adding "$10,000".

(3) The note following paragraph (d) is removed in its entirety.

I. Clause 8. Examination of Records by Comptroller General and the note following the clause are removed and the following substituted:

8. Examination of Records by Comptroller General

(Text of this clause is set forth in FPR 1-7.103-3.)

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J. Clause 16. Rights in Data is amended to remove the note at the end of the clause and to remove the clause "16. Copyright and Publication" in its entirety.

* * * * *

K. Clause 18. Notice and Assistance Regarding Patent and Copyright Infringement is revised to read:

18. Notice and Assistance Regarding Patent and Copyright Infringement

(Text of this clause is set forth in FPR 1-7.103-4.)

* * * * *

L. Clause 20. Patent Rights—Deferred (Long-Form) is revised to read:

20. Patent Rights

(If this contract is with a small business firm, university or nonprofit organization where a purpose is to perform experimental, developmental, or research work, the following clause is applicable):

20. Patent Rights (Small Business Firms and Nonprofit Organizations) (March 1982)

(a) *Definitions.* (1) "Invention" means any invention or discovery which is, or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firms" means a small business concern as defined at Section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting involved in Government procurement and subcontracting at 13 CFR 121.3-6 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.* (1) The Contractor will disclose each subject invention to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Contracting Office shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, or sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer the Contractor will promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor: *Provided.* That in any case where publication, or sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Department to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries within

either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications whether such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the Office of General Counsel, Chief of the Patent Branch, be granted.

(d) *Conditions When the Government May Obtain Title.* (1) The Contractor will convey to the Government of the United States as represented by the Secretary of the Department of Health and Human Services, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect the subject invention within the times specified in (c), above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c), above: *Provided, however,* That is the Contractor has filed a patent application in a country after the times specified in (c), above, but prior to its receipt of the written request of the Office of General Counsel, Chief of the Patent Branch, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Department except when tranferred to the successor of that party of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Department to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Department to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Department will furnish the Contractor a written notice of its intention to revoke or modify the license, and Contractor will be allowed thirty days (or such other time as may be authorized by the Department for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Department all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Government of the United States as represented by the Secretary of the Department of Health and Human Services when requested under paragraph (d), above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify the Office of General Counsel, Chief of the Patent Branch, of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceedings on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the Department of Health and Human Services. The Government has certain rights in this invention."

(5) The Contractor agrees to provide the Contracting Officer annual listings of all subject inventions required to be disclosed during the period covered by the report.

(6) The Contractor agrees to provide the Contracting Officer a report prior to the close-out of a contract listing all subject inventions or stating that there were none.

(7) The Contractor agrees to provide the Contracting Officer a notification of all subcontracts for experimental, developmental or research work.

(8) The Contractor agrees to provide the Contracting Officer the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.* (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provide for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The Contractor will include in all other subcontracts, regardless of tier, for experimental, developmental or research work, the following patent rights clause:

The Contractor hereby agrees to report fully and promptly to (Prime Contractor)————any invention conceived or first actually reduced to practice in performance of this contract (hereinafter referred to as "such invention(s)," and to assign all right, title and interest in and to such invention to (Prime Contractor)————or its designee.

In addition, the Contractor agrees to furnish the following materials, disclosures and reports:

(i) Upon request, such duly executed instruments (Prepared by the (Prime Contractor)————or its designee) and such other papers as are deemed necessary to vest in the (Prime Contractor)————or its designee the rights granted under this clause and to enable the (Prime Contractor)————or its designee to apply for and prosecute any patent application, in any country, covering such invention.

(ii) Interim reports on the first anniversary of this contract where extended or renewed and every year thereafter listing all such inventions made during the period whether or not previously reported or certifying that no inventions were conceived or first actually reduced to practice during the applicable period.

(iii) Prior to final settlement of this contract, a final report listing all such inventions, including all those previously listed in interim reports, or certifying that no inventions were conceived or first actually reduced to practice under the contract.

(3) In the case of subcontracts, at any tier, when the prime award the Department was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the

subcontractor and the Department with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Department may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Department in connection with any march-in proceedings undertaken by the Department in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the Department agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Department upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in-Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Department has the right in accordance with the procedures in OMB Circular A-124 to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Department has the right to grant such a license itself if the Department determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Department, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

(l) *Communication.* The Office of General Counsel, Chief of the Patent Branch is designated a central point of contact for communications on matters related to this clause.

OR

(If this contract is with a commercial organization and the above clause is not applicable, the following clause is applicable:)

20. Patent Rights—Deferred (Long Form)

(Text of this clause is set forth in FPR 1-9.107-5(a) except that paragraph (b) of that clause shall be replaced with paragraph (b) in FPR 1-9.107-5(c).)

* * * * *

M. Clause 22. Key Personnel is revised to read:

22. Key Personnel

(Text of this clause is set forth in FPR 1-7.304-6.)

N. Clause 23. Litigation and Claims is amended in the first sentence by removing "Allowable Cost and Fixed Fee." and adding "Allowable Cost, Fixed Fee, and Payment."

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O. Clause 25. Payment for Overtime is revised to read:

25. Payment for Overtime Premium

(Text of this clause is set forth in FPR 1-7.202-29.)

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P. Clause 28. Printing is amended in the last sentence by removing "8 by 10½" and adding "8½ by 11".

Q. Clause 29. Services of Consultants is amended in paragraph (b) by removing "$100.00" and adding "$150."

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R. Clause 35. Convict Labor is revised to read:

35. Convict Labor

(Text of this clause is set forth in FPR 1-12.204.)

S. Clause 36. Officials Not To Benefit is revised to read:

36. Officials Not To Benefit

(Text of this clause is set forth in FPR 1-7.102-17.)

* * * * *

T. Clause 39. Utilization of Small Business Concerns is revised to read:

39. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned buisness, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals. The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or small business concern owned and controlled by socially and economically disadvantaged individuals.

* * * * *

U. Clause 42. Utilization of Minority Business Enterprises is revised to read:

42. Utilization of Women-Owned Business Concerns (Over $100,000.)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" means all women business owners.

V. Clause 43. Payment of Interest on contractor's Claims is revised to read:

43. Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

W. Clause 44. Listing of Employment Opening is revised to read:

44. Disabled Veterans and Veterans of the Vietnam Era

(a) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occuring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in the State, with the central office of that State employment service. Such reports shall indicate for each hiring location: (1) The number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 day's duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer/union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of its employees.

(i) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled verterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The Contractor will notify each labor union or representative or workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

X. Clause 47. Employment of the Handicapped is revised to read:

47. Employment of the Handicapped

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Department of Labor, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

Y. Clause 48 is added as follows:

48. Final Decisions on Audit Findings

For the purpose of issuing final decisions under the Disputes Article of this contract concerning monetary audit findings, the Contracting Officer shall be that person with ultimate responsibility for making that decision in accordance with Chapter 1-105, Resolution of Audit Findings, of the Department's Grants Administration manual.

Z. Clause 49 is added as follows:

49. Advertising of Awards

The Contractor agrees not to refer to awards issued by the Department of Health and Human Services in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal Government or is necessarily considered by the Government to be superior to other products or services.

* * * * *

7. Subpart 3-16.50, Forms for negotiated procurement, is amended as follows:

§ 3-16.5002-4 [Amended]

A. Section 3-16.5002-4(b) is revised to read:

* * * * *

(b) The following are the applicable General Provisions to be used in contracts covered by this Subpart 3-16.50.

(1) Form HHS-314 (Rev. ——) General Provisions for Negotiated Fixed-Price Research and Development Contract. It is noted that, with the removal of Clause 17, "Patent Rights", the form should be used with other types of nonpersonal services contracts, e.g., studies, surveys, and demonstrations in socio-economic areas.

(2) Form HHS-315 (Rev. ——), General Provisions for Negotiated Cost-Reimbursement Contract with Educational Institutions.

(3) Form HHS-315A (Rev. ——), General Provisions for Negotiated Cost-Reimbursement Contract with Nonprofit Institutions Other than Educational Institutions.

(4) Form HHS-316 (Rev. ——), General Provisions for Negotiated Cost-Plus-A-Fixed-Fee Contract.

* * * * *

§ 3-16.5002-7 [Amended]

B. Section 3-16.5002-7(c) is revised to read:

c. Remove 4, Allowable Cost, and Payment and substitute the clause entitled "Allowable Cost, Fixted Fee and Payment" (See FPR 1-7.202-4 for text of this clause). However, the following paragraph (a) shall be used instead of paragraph (a) in the clause:

(a) For the performance of this contract, the Government shall pay to the Contractor:

(1) The fixed fee, if any, as may be provided for in the Schedule; and

(2) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with the terms of this contract and with the applicable cost principles in effect on the date of this contract:

(i) 45 CFR 74 Appendix E for hospitals; or

(ii) Subpart 1-15.7 of the Federal Procurement Regulations (41 CFR 1-15.7) for State, local and federally recognized Indian tribal governments; or

(iii) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2) for nonprofit organizations identified in § 1-15.603-3, except that costs of Independent

Research and Development and its proportionate share of indirect costs shall not be allowed; or

(iv) Subpart 1-15.6 of the Federal Procurement Regulations (41 CFR 1-15.6) for nonprofit organizations other than those identified in § 1-15.603-3. In addition, the following shall apply:

(A) *Bid and proposal costs.* Bid and proposal costs are the immediate costs of preparing bids, proposals, and applications for potential Federal and non-Federal grants, contracts, and agreements, including the development of scientific, cost, and other data needed to support the bids, proposals and applications. Bid and proposal costs of the current accounting period are allowable as indirect costs. Bid and proposal costs of past accounting periods are allowable in the current period. However, if the organization's established practice is to treat these costs by some other method, they may be accepted if they are found to be reasonable and equitable. Bid and proposal costs do not include independent research and development costs covered by the following paragraph, or preaward costs covered by Paragraph 33 of Attachment B to OMB Circular A-122 (see § 1-15.603-2).

(B) *Independent research and development costs.* Independent research and development is research and development conducted by an organization which is not sponsored by Federal or non-Federal grants, contracts, or other agreements. Independent research and development shall be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development. The costs of independent research and development, including its proportionate share of indirect costs, are allowable.

C. Section 3-16.5003 Additions, modifications, and substitutions to general provisions is revised to read:

§ 3-16.5003 Additions, modifications, and substitutions to general provisions.

Contracting officers shall include additional clauses or substitute alternate clauses for those included in the form General Provisions (Forms HHS-314-316) in accordance with applicable instructions in § 3-7.50 and the FPR. Written deviation requests shall be submitted through procurement channels, to the Director, Division of Procurement Policy (DPP); Office of Procurement and Assistance Policy (OPAP); Office of Procurement, Assistance and Logistics (OPAL); Office of the Assistant Secretary for Management and Budget, (OASMB-OS). The Director, (DPP), will inform the Contracting Officer through procurement channels, of the disposition of the request. In the event expeditious action is required, contracting officers are authorized to request oral or written approval directlly from the Director, (DPP), who will notify the contracting officer of the disposition of the request.

§ 3-57.104-3 [Amended]

8. Subsection 3-57.104-3, Contract clauses of § 3-57.104, *Withholding of contract payment*, Contract payment, of Subpart 3-57.1, Contract Monitoring, of Part 3-57, Contract Administration, is removed.

[FR Doc. 83-7739 Filed 3-25-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

46 CFR Part 276

[OST Docket 78; Notice No. 83-9]

Construction-Differential Subsidy Repayment; Total Repayment Policy; Extension of Comment Period

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice of extension of comment period.

SUMMARY: On January 31, 1983, the Department published a notice of proposed rulemaking (NPRM) to implement its authority under the Merchant Marine Act, 1936 (46 U.S.C. 1101 *et seq.*), to allow owners and operators of tankers built with construction-differential subsidies (CDS) under Title V of the Act to repay their subsidies and, consequently, obtain the permanent removal of domestic trading restrictions on their vessels. The comment period for the NPRM was scheduled to expire on April 1, 1983. A petition for the extension of the comment period has been received. This notice extends the comment period until May 2, 1983.

DATE: Comments on the referenced notice of proposed rulemaking should be received by May 2, 1983.

ADDRESS: Interested persons should submit comments to the Docket Clerk, OST Docket No. 78, Department of Transportation, 400 7th Street, SW., Room 10421, Washington, D.C. 20590. Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will time and date stamp the postcard and return it to the commenter. Comments will be available for inspection at the above address from 9:00 a.m. through 5:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Warren Dean, Deputy Assistant General Counsel for International Law, Department of Transportation, 400 7th Street, SW., Room 10104, Washington, D.C. 20590. (202) 426-2972.

SUPPLEMENTARY INFORMATION: The Department of Transportation published a notice of proposed rulemaking on January 31, 1983 (48 FR 4408) to allow any operator or owner of a CDS built tanker to pay back the unamortized amount of the subsidy, with interest, and, consequently, obtain the permanent removal of domestic trading restrictions with regard to such vessel. The Department established a 60-day comment period for this NPRM. On March 21, 1983, however, the Department received a petition of the Independent Tanker Owners Committee (ITOC) for a 60-day extension of the time to file comments on the Department's proposed rulemaking. ITOC argued that additional time was needed to prepare comments on a number of issues.

On March 24, 1983, American Petrofina, Inc. (Fina), filed a statement in opposition to ITOC's petition. Fina asserts that such an extension would be prejudicial and inappropriate.

In response to ITOC's request and after considering Fina's opposition, the Department has decided to extend the comment period for this rulemaking.

The new closing date for comments will be Monday, May 2, 1983. This will allow interested persons additional time to complete their analysis of the possible impact of the proposed regulation, without unduly delaying the Department's consideration of this matter.

(Secs. 204(6), 207, 506, and 714, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1117, 1156 and 1204, Pub. L. 86-518 (74 Stat. 216)).

Issued in Washington, D.C., this 24th day of March 1983.

Darrell M. Trent,

Deputy Secretary, Department of Transportation.

[FR Doc. 83-8065 Filed 3-25-83; 9:54 am]

BILLING CODE 4910-62-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-24; RM-4240]

FM Broadcast Station in Jackson, Wyoming; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments in the proceeding involving the proposed assignment of FM Channel 238 to

Jackson, Wyoming. Petitioner, Phil Keller, requests the additional time in order to consider filing an alternative proposal.

DATE: Comments must be filed on or before April 11, 1983 and reply comments are due on or before April 26, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

Order Extending Time For Filing Comments

In the Matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Jackson, Wyoming), MM Docket No. 83–24, RM–4240.

Adopted: March 14, 1983.
Released: March 18, 1983.
By the Chief, Policy and Rules Division.

1. On January 13, 1983, the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 4698, published February 2, 1983, in response to a petition filed by Phil Keller. The proposal requested the assignment of Class C Channel 238 to Jackson, Wyoming. The comment deadline is currently March 11, 1983.

2. On March 10, 1983, counsel for Phil Keller filed a request seeking an additional 30 day period in which to file comments. Counsel states that the Department of Interior filed an opposition to the proposal on the ground that the proposed site restriction would encroach upon Grand Teton National Park and the immediately surrounding area. The requested extension would allow petitioner an opportunity to determine if another Class C channel can be assigned to Jackson without a site restriction.

3. We feel that the petitioner should be given an opportunity to consider other alternatives. This extension would permit other interested parties an opportunity to respond to the new alternatives. Therefore, we are granting the additional time as requested.

4. Accordingly, it is ordered, That the above request for an extension of time, filed by Phil Keller, is granted and the dates for filing comments and reply comments are extended to and including April 11, 1983, and April 26, 1983, respectively.

5. This action is taken pursuant to authority found in sections 4(i) 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 83–7909 Filed 3–25–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 97

[PR Docket No. 83–28]

Establishment of a Class of Amateur Operator License Not Requiring a Demonstration of Proficiency in the International Morse Code; Order Extending Time For Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; extension of comment and reply comment period.

SUMMARY: This document extends the period for filing comments and reply comments in the no-code amateur radio operator license proceeding. The extension is necessary in order to get thoughtful and objective comments from interested persons. By this action, the Commission expects to receive comments which reflect dispassionate consideration of the no-code issue by the amateur community.

DATES: Comments are due by June 28, 1983 and replies by July 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554, (202) 632–4964.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, FCC Washington, D.C. 20554, (202) 632–4964.

Order

In the matter of establishment of a class of amateur operator license not requiring a demonstration of proficiency in the international Morse code, PR Docket No. 83–28, (2–3–83; 48 FR 4855).

Adopted: March 16, 1983.
Released: March 18, 1983.
By the Chief, Private Radio Bureau:

1. On February 1, 1983, the Commission released a Notice of Proposed Rule Making looking toward the establishment of an amateur radio operator license class for individuals who would not be required to first demonstrate a proficiency in the international Morse code. Comments on the proposal are due on April 29, 1983, with reply comments due on May 31, 1983.

2. A request, dated March 11, 1983, has been submitted by The American Radio Relay League, Inc. (ARRL) for a 60-day extension in which to file comments in this proceeding. In support of its request, ARRL notes that it has printed the Commission's proposal in the March, 1983, issue of QST, its monthly journal, and that its members are now engaged in discussions and debates concerning a no-code license. ARRL feels that it would be unfair to cut this process short. In addition, ARRL's Directors, at meetings to be held on April 21 and 22, will address the proposal and also consider the members' responses.

3. We concur with ARRL that a no-code amateur radio lecense is a core issue for the amateur community. Since we want the input from amateur radio operators to reflect thorough and dispassionate consideration, we will grant the requested extension of time.

4. In view of the foregoing, the Chief, Private Radio Bureau, acting under the authority delegated by Section 0.331 of the Commission's Rules, ORDERS that comments in PR Docket No. 83–28 must be filed on or before June 28, 1983, and that reply comments must be filed on or before July 28, 1983.

Federal Communications Commission.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 83–7908 Filed 3–25–83; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 48, No. 60
Monday, March 28, 1983

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States, to be held at 9:30 A.M. on Wednesday, April 6, 1982, at the Department of the Treasury, Cash Room (second floor), 15th Street & Pennsylvania Avenue, NW., Washington, D.C.

The committee will meet to discuss Professor Edward A. Tomlinson's study of the use of the Freedom of Information Act as a discovery device. The committee will also consider procedures to be used by the Department of Transportation for carrier selection on international air routes, a function now performed by the Civil Aeronautics Board.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should, if possible, notify the Office of the Chairman of the Administrative Conference prior to the meeting. The committee chairman, if she deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting.

For further information concerning this meetng contact David M. Pritzker, Office of the Chairman, Administrative Converence of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Dated: March 21, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83–7818 Filed 3–25–83; 8:45 am]

BILLING CODE 6110–01–M

CIVIL RIGHTS COMMISSION

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission of Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00pm and will end at 10:00pm, on April 26, 1983, in the Huron Room, at the Sheraton Hotel Gary, 465 Broadway Street, Gary, Indiana, 46401. The purpose of this meeting is to discuss the status of the Block Grants New Approach project; review the housing discrimination draft statement; and plans for future activities.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, Indiana 47401, (812) 337–9632 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–7871 Filed 3–25–83; 8:45 am]

BILLING CODE 6335–01–M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 8:30 p.m. and will end at 9:30 p.m., on April 18, 1983, at the Merrick Community Center, 715 Edgerton Street, St. Paul, Minnesota, 55103. The purpose of this meeting is to discuss the follow-up activities to the report, *Police Practices in the Twin Cities* and plans for future projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ruth A. Myers, 1006 East Second Street, Apartment Number One, Duluth, Minnesota 95805; (218) 726–8878 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated: at Washington, D.C., March 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–7869 Filed 3–25–83; 8:45 am]

BILLING CODE 6335–01–M

Mississippi Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Mississippi Advisory Committee to the Commission originally scheduled for March 25, 1983, at Jackson, Mississippi, (FR Doc. 83–5804, on page 9677) has been canceled and will be rescheduled to be held at a later date.

Dated at Washington, D.C., March 22, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–7868 Filed 3–25–83; 8:45 am]

BILLING CODE 6335–01–M

Ohio Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on civil rights, that a meeting of the Subcommittee on Hispanic Education. Ohio Advisory Committee to the Commission will convene at 6:30 p.m. and will end at 10:00 p.m., on April 19, 1983, 3161 North Republic Boulevard, Toledo, Ohio, 43615. At this meeting the Subcommittee will discuss plans for collecting data and identify information sources for the Hispanic project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio, 45229. (513) 221–5656 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. March 23, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-7870 Filed 3-25-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. 626]

Piher Semiconductores, S.A., Avda San Julian, s/n Apartado Correos 177, Granallers (Barcelona), Spain; Order Amending Temporary Denial of Export Privileges

By orders of April 9, 1983, 47 FR 16819 (April 20, 1982), June 2, 1982, 47 FR 24765 (June 8, 1982), August 3, 1982, 47 FR 35808 (August 17, 1982), October 12, 1982, 47 FR 46558 (October 19, 1982) and December 7, 1982, 47 FR 55989 (December 14, 1982), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of December 7, 1982 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by a failure of such extension coupled with a continuing consideration of a motion filed by Piher International Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion to except Piher International Corp. is still continuing, and it has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 565 W. Golf Road, Arlington Heights, Illinois 60005 and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through May 1983 in the shipment release documents filed by Piher International Corp. in support of its application for this extension, provided all such exports are G-DEST under the Export Administration Regulations (15 CFR Part 368, *et seq.* (1982)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after May 1983 should a continuing consideration of its aforesaid motion entail serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective as of March 1, 1983.

Dated: March 22, 1983.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 83-7867 Filed 3-25-83; 8:45 am]

BILLING CODE 3510-25-M

Ferrochrome From South Africa; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ferrochrome from South Africa. The review covers the period April 11, 1981 through December 31, 1981. As a result of the review, the Department has preliminarily determined the amount of the total bounty or grant to be 0.40 percent of the f.o.b. invoice price of the merchandise. The Department considers this rate to be *de minimis*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black or Josephine Russo, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2788.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1981 the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 29979) the final results of its last administrative review of the countervailing duty order on ferrochrome from South Africa (46 FR 21155, April 9, 1981) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by the review is ferrochrome, imported directly or indirectly from South Africa. Such imports were classifiable during the period of review under items 606.2200, 606.2400 and 923.18 of the Tariff Schedules of the United States Annotated. The review covers the period April 11, 1981 through December 31, 1981, and the following programs: (1) Preferential railroad rates provided by the South African Transport Services ("SAT") for export shipments, cited in the countervailing duty order; (2) the Central Government Rebate of railage charges, discussed in the original final determination; (3) Categories A, B, C and D of the Export Incentive Program, also discussed in part in the original final determination; (4) Industrial Development Corporation ("IDC") loans given at preferential rates for the purpose of developing export capacity; and (5) tax benefits received under a program which provides for "beneficiation" allowances for base mineral processing. The latter programs came to our attention through subsequent investigations involving exports from South Africa.

Analysis of Programs

(1) *Preferential Railroad Rates.* As indicated in our last review, SATS terminated the railroad rate differential between export and domestic shipments of ferrochrome effective January 1, 1981. SATS did not reinstate the differential during the period of review.

(2) *Central Government Rebate of Railage Charges.* The Central Government Rebate of 25 percent of railage charges was discussed in the final determination in the original investigation regarding ferrochrome (41 FR 1248, January 7, 1976). At that time the South African government terminated the rebate on shipments of ferrochrome destined for the United States. The government did not resume payment of the rebate during the period of review.

(3) *Export Incentive Program—Categories A, B, C and D.* Categories A and B are two tax related export incentives; shippers of ferrochrome are not eligible for those benefits. Category C (Finance Charges Aid Scheme) and Category D (Export Marketing

Assistance Program) were also discussed in the original final determination on ferrochrome. As indicated in that notice, South African exporters of ferrochrome agreed not to apply for or receive benefits under those programs for shipments to the United States. During the period of review the exporters did not use those two categories.

(4) *IDC Loans.* The IDC administers a loan program which provides funds for the purpose of establishing new export capacity. These loans are long-term and are given at interest rates below the market rate of interest. In caluculating the benefit from these loans we compared what a company would pay for comparable commercial loans in any given year with what a recipient company actually paid for preferential loans in that year. To construct a comparable commercial loan at the appropriate market rate and standard commercial terms, we used the year-end average long-term interest rate established in the secondary market on company loan securities, as reported in the *Quarterly Bulletin* of the South African Reserve Bank. We then calculated the present value of the payment differentials in each year of the loans using the "risk-free" rate for long-term government debt as the discount rate. This amount was then allocated evently over the life of the loan using the same discount rate to yield the annual subsidy amounts. We preliminarily determine that the benefit from this program during the period of review was 0.40 percent *ad valorem.*

(5) *Beneficiation Allowances for Base Mineral Processing.* The beneficiation allowance is a tax investment allowance which is given by the South African government in addition to the normal investment allowance. It is given at the discretion of the Minister of Finance. Ferrochrome producers made no claims during the period of review. While several claims were made by ferrochorme producers prior to that period, we found that the Minister denied such claims.

Preliminary Result of Review

As a result of our review, we preliminarily determine that the total bounty or grant conferred by the programs cited above is 0.40 percent *ad valorem.* We consider this rate, since it is less than 0.50 percent *ad valorem,* to be *de minimis.*

Accordingly, the Department intends to instruct the Customs Service to liquidate shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after April 11, 1981 and exported on or before December 31, 1981 without regard to countervailing duties.

Further, the Department intends to instruct the Customs Service to continue to waive the collection of a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or, a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: March 21, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-7886 Filed 3-25-83; 8:45 am]

BILLING CODE 3510-25-M

Postponement of Final Determination and Postponement of Hearing: Greige Polyester/Cotton Printcloth From The People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of postponement of final antidumping determination and postponement of hearing: Greige polyester/cotton printcloth from the People's Republic of China.

SUMMARY: This notice informs the public that the Department of Commerce has received a request from China National Textile Import and Export Corporation (Chinatex) and Huafang Trading Company (Huafang) that the final determination be postponed until not later than 135 days after the date of the preliminary determination, as provided for in section 353.44(b) of the Department of Commerce Regulations (19 CFR 353.44(b)), and that the Department will postpone its final determination as to whether greige polyester/cotton printcloth from the People's Republic of China has occurred at less than fair value until not later than July 22, 1983.

The hearing originally scheduled for March 30, 1983, at 10:00 a.m., in Conference Room 4830, has been postponed. The new hearing date is May 23, 1983, at 10:00 a.m., in Conference Room 6802. The prehearing briefs will be due on May 16, 1983.

Chinatex and Huafang are qualified to make this request since they are exporters who account for one hundred percent of the merchandise which is the subject of the investigation. The additional time is necessary to enable Chinatex and Huafang to prepare adequately for the hearing and to prepare the relevant briefs, which must address several novel issues raised by this investigation.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Rick Herring, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-2613 or 377-3963.

SUPPLEMENTARY INFORMATION: On September 1, 1982, the Department of Commerce published notice in the **Federal Register** (47 FR 38569) that it was initiating under section 732(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether greige polyester/cotton printcloth from the People's Republic of China is being, or is likely to be, sold at less than fair value. The Department published an affirmative preliminary determination on March 9, 1983 (48 FR 9897). The notice stated that if this investigation proceeded normally we would make a final determination by May 27, 1983. Section 735(a)(2) of the Act provides that the Department of Commerce may postpone its final determination concerning sales at less than fair value if an exporter who accounts for a significant proportion of the merchandise which is the subject of the investigation requests an extension after an affirmative preliminary determination.

Accordingly, the Department will issue a final determination in this case not later than July 22, 1983.

This notice is published pursuant to section 735(d) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 22, 1983.

[FR Doc. 83-7887 Filed 3-25-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Determination of Sales at Less Than Fair Value: Shop Towels of Cotton From The People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value: Shop towels of cotton from The People's Republic of China.

SUMMARY: We have preliminarily determined that shop towels of cotton from the People's Republic of China are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by June 6, 1983.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Rick Herring, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2613 or 377-3963.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that shop towels of cotton (shop towels) from the People's Republic of China (PRC) are being sold, or are likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

For shop towels sold by China National Textiles Import and Export Corporation (Chinatex) and China National Arts and Crafts Import and Export Corporation (CNART), the only exporters of the subject merchandise, we have found that the foreign market value exceeded the United States price on 100 percent of sales compared. These margins ranged from 19.7 percent to 46.6 percent. The weighted-average margin on all sales compared is 31.4 percent.

If this investigation proceeds normally, we will make a final determination by June 6, 1983.

Case History

On August 24, 1982, we received a petition from counsel for Milliken & Company, filed on behalf of the United States industry producing shop towels. The petition alleged that shop towels from the People's Republic of China are being sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated this investigation on September 13, 1982 (47 FR 41149). The ITC informed the Department on October 8, 1982, that there is a reasonable indication that imports of shop towels from the People's Republic of China are materially injuring, or are threatening to materially injure, a United States industry (47 FR 46777). Therefore, we proceeded with this investigation. On December 9, 1982, we determined this case to be "extraordinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making a preliminary determination from January 31, 1983, until March 22, 1983 (47 FR 56377).

Questionnaires were presented to counsel for Chinatex and CNART on November 17, 1982. Responses of both companies were received January 17, 1983. As discussed under the "Foreign Market Value" section of this notice, we determined that the PRC is a state-controlled-economy country for the purpose of this investigation.

Scope of Investigation

The product covered by this investigation is shop towels of cotton from the People's Republic of China, which are currently classified under item number 366.2740 of the *Tariff Schedules of the United States Annotated.*

Since Chinatex and CNART are the only exporters of shop towels from the People's Republic of China, we limited our investigation to them.

This investigation covers the period from March 1, 1982 through August 31, 1982.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent United States price because sales by both Chinatex and CNART were made to unrelated purchasers prior to the importation of the merchandise into the United States. We calculated purchase price based on the C&F or CIF price to the unrelated purchasers. Where appropriate, we made deductions for ocean freight and marine insurance.

Foreign Market Value

In accordance with section 773 of the Act, we used surrogate prices of shop towels imported to the United States to determine foreign market value. Petitioners alleged that the economy of the People's Republic of China is state-controlled to the extent that sales of the subject merchandise from that country do not permit a determination of foreign market value under 19 U.S.C. 1677b(a). After an analysis of the PRC's economy, and consideration of the briefs submitted by the parties, the Commerce Department concluded that the PRC is a state-controlled-economy country for purposes of this investigation. Among the factors that were involved in determining the state-controlled issue are the fact that the major raw material, cotton, has production targets and prices set or heavily influenced by the state, and that the textile industry has a dual pricing structure that is heavily influenced by the state. As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country. Our regulations establish a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

It was determined, after an analysis of countries which produce shop towels,

information on Pakistani home market sales of the product. Other countries which we considered as possible surrogates were India, Indonesia, Thailand, Singapore, the Dominican Republic, Colombia, and Hong Kong. We were unable to obtain information on prices or costs of manufacturers of shop towels in India, Indonesia, Thailand, Singapore, the Dominican Republic, or Colombia. In many of those countries no shop towels were produced during the period of investigation.

When it was determined that finding a country which manufactures shop towels and which is at a comparable economic level as the PRC was not possible, we decided to look for a product which is such or similar (as defined in section 771(16) of the Act) to the PRC shop towel. After consulting with textile experts in the Department, we examined the fabric osnaburg as a product possibly similar to the shop towel. Osnaburg is the fabric from which a shop towel is made. We were unable to find any manufacturers of osnaburg with home market sales in Indonesia, Thailand, the Dominican Republic, or Colombia. We located a Colombian textile manufacturer which had made osnaburg, but we were unable to obtain cost of production information adequate for purposes of making the adjustments according to the Commerce Regulations for use in a fair value comparison.

Therefore, pursuant to § 353.8(a)(1) of our Regulations, we based foreign market value on the average fob price of all imports of shop towels into the United States from May 1982 through October 1982, except those imported from the PRC. This information was gathered from Department of Commerce import statistics, which was the best information available.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of shop towels of cotton from the People's Republic of China subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject that Pakistan would be the most appropriate surrogate; however, we were unable to obtain sufficient to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Exporter	Weighted-average margin (percent)
China National Textiles Import & Export Corporation	24.2
China National Arts and Crafts Import & Export Corporation	40.7
All Others	31.4

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on May 2, 1983, at the United States Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by April 25, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 22, 1983.

[FR Doc. 83-7806 Filed 3-25-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Public Hearings Scheduled for Proposed La Parguera National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, Commerce.

Notice is hereby given that the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed La Parguera National Marine Sanctuary.

Hearings will be held on April 12, 1983, 7:00 p.m. at the Community Center in La Parguera, Lajas, Puerto Rico and on April 13, 1983, 7:00 p.m. at the Department of Natural Resources Auditorium in San Juan, Puerto Rico.

The views of interested persons and organizations of the adequacy of the impact statement on the proposed La Parguera National Marine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but, staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on May 2, 1983. As part of the procedures leading toward designation of this sanctuary, a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCRM prior to the deadline will be included in the FEIS.

FOR FURTHER INFORMATION CONTACT: Gloria Thompson, Sanctuary Programs Division, Office of Ocean and Coastal

Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW., Washington D.C. 20235, telephone: 202/634-4236.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: March 22, 1983.

K. E. Taggart,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-7889 Filed 3-25-83; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements; Proposed Subsequent Arangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2106) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-EU-767, to British Nuclear Fuels, Ltd., one gram of uranium containing 0.48% U-235 for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: March 22, 1983.

For the Department of Engery.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-7798 Filed 3-25-83; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Transmission Rate Adjustment, Public Hearings, and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Proposed Transmission Rate Adjustment, Notice of Public Hearings, and Opportunities for Review and Comment.

BPA File Number: TR-83.

BPA requests that all comments and documents which become part of the Record compiled in the process of adjusting transmission rates contain the file number designation TR-83.

SUMMARY: On January 28, 1983, BPA published in the **Federal Register** (48 FR 4027) a "Notice of Intent to Revise Transmission Rates" because revenue from the current rates is insufficient to recover increased costs of the Federal Columbia River Transmission System (FCRTS). BPA's proposed transmission rates are expected to produce an overall revenue increase of 58 percent, while rates for the wheeling of firm power will increase 31 percent. BPA anticipates filing the final transmission rate proposal with FERC on or about October 1, 1983. It is anticipated the BPA's new transmission rates will become effective on an interim basis on or about November 1, 1983.

The current transmission rates were approved on an interim basis by the Assistant Secretary for Resource Applications of the Department of Energy on June 24, 1981, to become effective subject to refund on July 1, 1981. Their effectiveness was extended by the Federal Energy Regulatory Commission (FERC) by Order dated February 18, 1983 in Docket Numbers EF-81-202-002 and E-9563-004. Transmission rate adjustments to be made in 1983, however, are subject to the interim and final approval authority of the FERC pursuant to Section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act).

The process of developing transmission rates provides opportunities for interested persons to make recommendations and to participate in public hearings. Any written comments or recommendations received until the end of the hearings will become part of the Official Record. The final rate proposal will be developed after consideration of the Official Record, and it therefore may differ substantially from the rates proposed in this Notice.

DATES: Persons wishing to become a formal "party" to the proceedings must notify BPA in writing of their intention to do so. The notification must be received by April 8, 1983, and should be addressed as follows: Hon. Seymour Wenner, Hearing Officer, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Customers of BPA who provide notice are parties of right. Others may become parties by demonstrating in their notice and at the prehearing conference that they would represent a significant and otherwise unrepresented interest. The notice should contain: (1) The name of the person or entity claiming status as a party; (2) the person who will be representing the party; (3) whether the person or entity claiming status as a party has a contractual relationship with BPA that could be affected by the proposed rates; and (4) if no contractual interest exists, the interest the person believes would be served by their being a party. All timely applications will be ruled on by the Hearing Officer.

A prehearing conference will be held before the Hearing Officer at 9 a.m. on April 11, 1983, in the cafeteria, Washington Monroe High School, 531 SE. 14th Avenue, Portland, Oregon. Registration for the prehearing conference will begin at 8:30 a.m.

It is expected that during the prehearing conference, hearing dates will be set for clarifying sessions, the presentation of direct cases, rebuttal cases, cross-examination, oral argument, and briefs. A notice of the dates and times of the hearings will be served on all parties of record. All formal hearing sessions will be held in the cafeteria, Washington Monroe High School, 531 SE. 14th Avenue, Portland, Oregon.

Two sets of field hearings will be held at various regional locations regarding BPA's proposal. During the first set, BPA will present to the public a synopsis of the rate proposal and receive comments from the general public. The public's comments will be subject to cross-examination by the parties and BPA. Presentation of testimony and evidence from formal parties will not be allowed at the field hearings. Registration for the hearings will be at 7 p.m., and the hearings will begin at 7:30 p.m. The dates and locations are:

April 11, BPA Auditorium, 1002 NE. Holladay Street, Portland, Oregon.

April 12, Eugene Hilton, Hellman Room, 66 East Sixth Avenue, Eugene, Oregon.

April 13, Bicentennial Pavilion Rotunda, 1313 Market Street, Tacoma, Washington.

April 14, Landmark Best Western Motel, 4200 200th, SW., Lynnwood, Washington.

1April 18, Burley Inn, 800 North Overland Avenue, Burley, Idaho.

April 19, Village Red Lion, Blackfoot Room, 100 Madison, Missoula, Montana.

April 20, Ramada Inn, International Airport, Spokane, Washington.

April 21, Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington.

A second series of field hearings will be scheduled near the end of the formal hearings. These field hearings will provide the public with an additional opportunity to comment based on their review of the evidence presented in the formal hearings. BPA will consider the public's comments in the evaluation of the record. The hearing schedule and locations will be announced in newspapers in the region.

Written comments may be submitted until the close of the hearings, the last day for receipt of written comments will be specified in a later **Federal Register** Notice.

ADDRESSES: Written comments not submitted at the hearings should be submitted to the Public Involvement Office, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Written comments submitted by the close of the hearing will be made part of the record.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212; (503) 230-3478. BPA maintains toll-free lines for the use of persons within the region. Oregon callers may use 1-800-452-8429; callers in Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California may use 1-800-547-6048. Additional information is available from:

Mr. Geoge Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377.

Mr. Richard Casad, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION:

A. *Applicable Legislation.* BPA operates and maintains the Federal Columbia River Transmission System (FCRTS) in order to (a) integrate and transmit electric power from existing or additional Federal or non-Federal generating units; (b) provide service to BPA customers; (c) provide interregional transmission facilities, and (d) maintain the electrical stability and electrical reliability of the Federal system. BPA is required by law to recover the costs associated with the production, purchase, conservation, and transmission of electric power and to repay with interest the Federal investment in the transmission and generation facilities of the Federal system. The basic requirement to recover costs is found in Section 7 of the Bonnerville Project Act.

In 1974, the Federal Columbia River Transmission System Act (Transmission Act) was passed. This legislation placed BPA on a "self-financing" basis by authorizing the use of sales receipts and the proceeds of revenue bonds to finance the construction of transmission facilities. Section 6 of the Transmission Act requires the Administrator to make available any capacity of the Federal transmission system in excess of Federal power requirements to all utilities on a fair and nondiscriminatory basis. Section 9 of this Act requires that schedules of rates and charges for the transmission of non-Federal power shall be subject to confirmation and approval by the Federal Power Commission. Pursuant to Section 7(a)2 of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), authority to confirm and approve BPA's transmission rates is now vested in the Federal Energy Regulatory Commission (FERC). Furthermore, those rate schedules shall: (a) encourage the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles; and (b) recover the cost (based upon the application of rate schedules to the capacity of the electric facilities of the projects) of producing and transmitting electric power, including the amortization of the capital investment allocated to power over a reasonable period of years. Section 10 of the Transmission Act allows for uniform rates but requires that "the recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system."

Section 7 of the Regional Act requires the Administrator to establish rates for the transmission of non-Federal power, and it also requires that the costs of the transmission system shall be equitably allocated between Federal and non-Federal power utilizing the FCRTS.

B. *Contracts.* BPA has negotiated numerous wheeling agreements. Many of the agreements were originally negotiated prior to the 1974 Transmission Act and reflect the conditions and policies prevalent at the time of negotiation. Provisions that change from agreement to agreement include the type of facilities available, the type of service, frequency of rate adjustments, the determination of losses, the calculation of billing determinants, and methods to be used in determining the cost of service.

Certain contracts, for example, specify that transmission rates can be changed annually while other contracts limit rate adjustments once every three years. One firm transmission contract limits rate changes to once every five years. Ideally, rates for these contracts should be based on cost estimates for the weighted average cost over the rate period for which the rates are anticipated to be in effect. The three year contracts are changeable on July 1, 1984, and the five year contract is changeable on November 1, 1983 and terminates in August 1988. However, the preparation of the studies necessary for the development of additional test year costs beyond OY 1985 has not been undertaken in this rate filing because the amount of work estimated to complete those studies would be voluminous, and the changes in rate levels is expected to be small.

In addition, numerous transmission contracts prescribe the method and factors to be used in determining both the cost of providing the service and in the design of rates. May of these contracts are "formula power" contracts and the factors specified in them are the forerunners of the FPT rate schedule. Applicable legislation requires transmission costs to be equitably allocated between Federal and non-Federal power. The method used in BPA's Cost of Service Analysis (COSA) to determine the equitable allocation of costs is different than the contractual provisions stipulating the methods to be used to determine the cost of service in formula power contracts. In cases where BPA is required by contractual provisions to use a specific rate setting method, such methods are used in this rate proposal both to determine the revenue requirement and to design the rate (contract level rates). This is different from the approach used by BPA in the 1981 transmission rate filing wherein formula power transmission tariffs were scaled back so as to match the COSA revenue requirement (COSA level rates). The approach used in this initial filing for FPT contracts reflects BPA's concern for the need to adhere to

contractual provisions and maintain fiscal integrity.

Other BPA contracts also do not permit changes in rate methodology. In some cases, the rates proposed in this Notice will not be applicable to such contracts. BPA intends to apply its historical rate schedules to these contracts, as required.

C. *Transmission Policy.* Concurrent with the last transmission rate filing in 1981, BPA announced its intent to revise its transmission policy. That effort included a series of customer meetings intended to review a draft BPA policy. The proposed transmission policy is planned for publication in the **Federal Register** shortly after the submittal of this initial transmission rate proposal. This rate proposal has been developed in general accordance with the proposed transmission policy which recognizes extensive custmer comment. The proposed BPA transmission policy supports several key principles that are relevant to transmission rate development, such as the following:

1. BPA's goal is that the Region's transmission system be planned and constructed to achieve as nearly as possible the maximum efficiency, reliability, economy and other benefits as if the Region's system were owned by a single utility. The lower demand charge available with the IR-83 rate schedule for certain connection points which only use FCRTS facilities for a short distance is intended to serve the one-utility standard. Because a postage stamp rate places a relatively high revenue burden on transmission which uses less of the available facilities than the average wheeling transaction, and because this could be an undesirable incentive to construction of short distance parallel lines, BPA is proposing a formula exception to the postage stamp demand charge for services which can be proven do not make use of the full range of facilities on whose costs the IR rates are based.

2. BPA will encourage conservation of losses and economic operation of resources by facilitating, to the extent practicable, the efficient use of the Region's generating resources and transmission and distribution facilities. This is reflected in the IR-83 rate schedule and billing determinants which treat firm and nonfirm power scheduled from all resources of the utility on an equal basis.

3. The transmission policy considers equity among customers within a customer class by recognizing that revenue responsibility should correspond to the relative degree of use made of the FCRTS. This is reflected in the choice of demand and energy as IR-83 billing factors. Use of these biling factors tends to shift revenue responsibility somewhat toward those wheeling customers which make the heaviest sustained use of FCRTS facilities.

4. The transmission policy considers the desirability of flexibility and administrative efficiency by suporting a new form of firm network service for which the IR-83 rate schedule will be available. Though different in some respects from the IR-1 rate offered on an interim basis in the 1981 rate filing, the basic feature of combining a utility's network wheeling needs into a single account for billing purposes has been preserved.

5. VPA intends to develop specific policies and practices on the services to be available over the PNW-PSW Intertie. This will be conducted in the context of an interregional resource strategy and will involve a separate public involvement process concurrent with the rate case. Transmission policy and intertie policy will determine the availability of service to which filed rates will be applied.

Procedures Governing Rate Adjustments and Public Participation

Section 7(i) of the Regional Act provides procedures for encouraging the participation of the public in the development of BPA's rates. The procedures outlined in the Act differ from BPA's published "Procedure for Public participation in Major Regional Power Policy Formulation" (45 FR 26368, May 12, 1981), of which earlier versions governed BPA rate adjustments prior to the Regional Act. BPA prepared "Rules of Procedure Governing Rate Adjustments" (46 FR 11697, February 10, 1981) which were used in the 1981 BPA Wholesale Power and Transmission rate Hearings from February through May 1981. After providing notice, accepting comments and holding a hearing, BPA amended and published its "Rules of Procedure Governing Bonneville Power Administration (BPA) Rate Adjustments" by Federal Register Notice of February 10, 1982 (47 FR 6240), which were used in the 1982 BPA wholesale power rate filings. These procedures will be used for the 1983 BPA wholesale power and transmission rate filings. The proceedings for BPA's proposal to adjust wholesale power rates will be combined with the proceedings for BPA's proposal to adjust transmission rates.

The Regional Act prescribes a **Federal Register** Notice announcing the proposed rates, one or more hearings, the opportunity to submit written views, data, questions, and arguments outside the hearings, and a decision by the Administrator based on the record developed during the rate process. BPA procedures expand these requirements. They provide for publication of a Notice of Intent to revise rates, followed by a Notice of the proposed rates, a prehearing conference, hearing, receipt of written comments, preparation of decision documents, a decision, and the transmittal of the decision with supporting documentation to the Federal Energy Regulatory Commission (FERC).

The process begins with publication of a Notice of Intent to revise rates. This is followed by publication of a Notice of the proposed rates, which includes a discussion of the research, studies, analyses, and other available information in support of the proposed rates, the deadline for claiming status as a "party," and the beginning date for the hearing.

The procedures provide further for a prehearing conference if scheduled by the Hearing Officer. Pursuant to the rate procedures, a Prehearing Conference will be held before the Hearing Officer at 9 a.m. on April 11, 1983, in the cafeteria at Washington Monroe High School, 531 S.E. 14th Avenue, Portland, Oregon. Registration for the prehearing conference will begin at 8:30 a.m., and the conference will commence at 9 a.m. on Monday, April 11, 1983, with the Honorable Seymour Wenner presiding.

Issues for discussion at the prehearing conference may include disputes concerning status as a party, discovery, the scope of cross-examination, hearing schedules, and other pertinent matters. BPA will prefile the prepared testimony of its witnesses at the prehearing conference.

BPA also will convene a series of hearings at certain Regional locations. The purpose of these hearings is to present to interested members of the public a synopsis of the BPA rate proposal and to receive the comments, views, and opinions of the general public. The public's comments will be subject to cross-examination by the parties and BPA. Presentation of testimony and evidence from formal parties will not be allowed at these sessions. The hearings will be held at the times and locations previously listed. The conduct of these hearings will be substantially the same as that of public field hearings held for BPA's 1981 and 1982 rate proceedings. BPA staff will present a synopsis of the proposed rates followed by comments from the public. The public will have an opportunity to ask questions about the proposed rates.

BPA finds it necessary to distinguish between "participants in" and "parties to" the hearings. During the field hearings, BPA will receive comments, views, opinions, and information from "participants," who are defined in the procedures as interested persons who may express their views at a hearing, but who may not cross-examine other witnesses, participate in prehearing conferences, or serve or be served with documents. Participants, however, will be provided regular letters during the rate hearings summarizing the proceedings and are provided the opportunity to request materials presented during the hearings. Participants' written rebuttal will be made part of the Record. The participants category of interest has been established to give the public the maximum opportunity to participate, and to have its views considered without assuming the obligations incumbent upon the "parties."

The second category of interest is that of a "party." A party may be either a party of right because of its legal and/or contractual relationship with BPA, and hence, its direct interest, or it may be a person seeking to represent a significant and otherwise unrepresented interest in the hearings. Parties may participate in prehearing conferences, may call and cross-examine witnesses, and are entitled to service of documents from all other parties. Parties may also be cross-examined and required to serve documents on the other parties. To avoid unnecessary delay, cross-examination by parties may be limited by the Hearing Officer. Where two or more parties have substantially like interests and positions, the Hearing Officer may order appropriate limitations on the number of attorneys or parties appearing *pro se*, who will be permitted to cross-examine witnesses as well as file motions and objections on behalf of such parties. If a party demonstrates that it would not be represented adequately in the joint presentation of an issue or issues, the Hearing Officer may permit separate examination or argument regarding such issue or issues.

In order to facilitate discovery and promote the efficient use of cross-examination, the Hearing Officer may order BPA, the parties, or both to make witnesses available for clarifying sessions.

BPA expects that the series of field hearings will be followed by clarifying sessions, the presentation of direct cases, the presentation of rebuttal cases, cross-examination, oral argument, and briefing. The times for these proceedings will be established by the Hearing Officer at the prehearing conference and will be announced in a subsequent order that will be served on all parties of record.

After the close of the hearings, BPA will file a brief and an Evaluation of the Record. The Hearing Officer will extend an opportunity to other parties to evaluate the record and analyze the law through briefs. The Evaluation of the Record will provide a written evaluation of the record addressing significant technical issues. The Hearing Officer will also extend an opportunity to all parties and BPA to file reply briefs.

Persons need not attend the hearings in order to have their views included in the record. Written comments may be included in the record if they are submitted before the close of the hearings. Written views, data, questions, and arguments should be submitted to BPA's Public Involvement Manager.

The record will include, among other things, the transcripts of the hearings, written material submitted by the parties and participants, documents developed by the BPA staff, and other material accepted into the record by the Hearing Officer. The Hearing Officer will then review the record, will supplement it if necessary, and will certify the record to the Administrator for decision.

The Administrator will develop the final proposed rates based on the entire record, including the record certified by the Hearing Officer, comments received from participants in the field hearings, other material and information submitted to, or develolped by, the Administrator, and any other comments received during the rate development process. The basis for the final proposed rates will be supported by the Administrator's Record of Decision. The Administrator will serve copies of the Administrator's Record of Decision on all the parties and participants, and will file the final proposed rates together with the Record with the FERC for confirmation and approval.

Transmission Rate Schedules

Schedule FPT-83.1—Formula Power Transmission

Section 1. Availability

This schedule supersedes FPT-2 for all firm transmission agreements which provide that rates may be adjusted not more frequently than once a year. It is available for firm transmission of electric power and energy using the FCRTS. This schedule is for full-year and partial-year service and for either continuous service or intermittent service so long as firm availability of service is required.

Section 2. Rate

A. *Full-Year Service.* The monthly charge per kilowatt of billing demand shall be one-twelfth of the sum of the Main Grid Charge, the Secondary System Charge, and Intertie Charge, as applicable and as specified in the Agreement.

1. *Main Grid Charge.* The Main Grid Charge shall be the sum of one or more of the following factors as specified in the Agreement:

a. Main Grid Distance Factor—The amount computed by multiplying the Main Grid Distance by $.0406 per mile;

b. Main Grid Integration Terminal Factor—$.38;

c. Main Grid Miscellaneous Facilities Factor—$1.88;

d. Main Grid Terminal Factor—$.38; and

e. Main Grid Delivery Terminal Factor—$.51.

2. *Secondary System Charge.* The Secondary System Charge shall be the sum of one or more of the following factors associated with deliveries at 115 kV as specified in the Agreement:

a. Secondary System Distance Factor—The amount determined by multiplying the Secondary System Distance by $.2252 per mile;

b. Secondary Transformation Factor—$2.85;

c. Secondary System Integration Terminal Factor—$.93;

d. Secondary System Intermediate Terminal Factor—$.93;

e. Secondary System Delivery Terminal Factor—$1.13;

3. *Intertie Charge*—for use of PNW-PSW Intertie facilities—$6.48.

B. *Partial-Year Service.* The monthly charge per kilowatt of billing demand shall be as specified in Section 2.A. for all months of the year except:

1. For unplanned firm service, such as emergency station service when a generating unit is down, the yearly charge shall be equal to one monthly charge as defined in Section 2.A. so long as the use during each year does not exceed 730 hours. If the use during each year exceeds 730 hours, the yearly charge shall be as specified in Section 2.A.

2. For agreements whose term is 5 years or less and which specify service for fewer than 12 months per year, the charge shall be:

a. during months for which service is specified, the monthly charge defined in Section 2.A., and

b. during other months, the monthly charge defined in Section 2.A. multiplied by 0.2.

Section 3. Determination of Billing Demand

Unless otherwise stated in the Agreement, the billing demand shall be the largest of:

A. The Transmission Demand in kW's specified in the Agreement;

B. The highest hourly Measured or Scheduled Demand for the month; or

C. The Ratchet Demand.

Schedule FPT 83-3—Formula Power Transmission

Section 1. Availability

This schedule supersedes FPT-2 for all those firm transmission Agreements which provide that rates may be adjusted not more frequently than once every 3 years.

Section 2. Rates

A. *Full-Year Service.* The monthly charge per kilowatt of billing demand shall be one-twelfth of the sum of the Main Grid Charge, the Secondary System Charge, and Intertie Charge, as applicable and as specified in the Agreement.

1. *Main Grid Charge.* The Main Grid Charge shall be the sum of one or more of the following factors as specified in the Agreement:

a. Main Grid Distance Factor—The amount computed by multiplying the Main Grid Distance by $.0412 per mile;

b. Main Grid Integration Terminal Factor—$.39;

c. Main Grid Miscellaneous Facilities Factor—$1.91;

d. Main Grid Terminal Factor—$.39; and

e. Main Grid Delivery Terminal Factor—$.52.

2. *Secondary System Charge.* The Secondary System Charge shall be the sum of one or more of the following factors associated with deliveries at 115 kV [and 69 kv] as specified in the Agreement:

a. Secondary Transformation Factor—$2.89;

b. Secondary System Intergration Terminal Factor—$.94;

c. Secondary System Distance Factor—The amount determined by multiplying the Secondary System Distance by $.2284 per mile;

d. Secondary System Intermediate Terminal Factor—$.94;

e. Secondary System Delivery Terminal Factor—$1.15.

3. *Intertie Charge.* For use of PNW-PSW Intertie facilities—$6.57.

B. *Partial-Year Service.* The monthly charge per kilowatt of billing demand shall be as specified in Section 2.A. for all months of the year except:

1. For unplanned firm service, such as emergency station service when a generating unit is down, the yearly charge shall be equal to one monthly charge as defined in Section 2.A. so long as the use during each year does not exceed 730 hours. If the use during each year exceeds 730 hours, the yearly charge shall be as specified in Section 2.A.

2. For agreements whose term is 5 years or less and which specify service for fewer than 12 months per year, the charge shall be:

a. During months for which service is specified, the monthly charge defined in Section 2.A., and

b. During other months, the monthly charge defined in Section 2.A. multiplied by 0.2.

Section 3. Determination of Billing Demand

Unless otherwise stated in the agreement, the billing demand shall be the largest of:

A. The Transmission Demand in kW's specified in the Agreement;

B. The highest hourly Measured or Scheduled Demand for the month; or

C. The Ratchet Demand.

Schedule FPT 83-5—Formula Power Transmission

Section 1. Availability

This schedule supersedes FPT-1 for all those firm transmission Agreements which provide that rates may be adjusted no more frequently than once every five years.

Section 2. Rates

A. *Full-Year Service.* The monthly charge per kilowatt of billing demand shall be one-twelfth of the sum of the Main Grid Charge, the Secondary System Charge and Intertie Charge, as applicable and as specified in the Agreement.

1. *Main Grid Charge.* The Main Grid Charge shall be the sum of one or more of the following factors as specified in the Agreement:

a. Main Grid Distance Factor—The amount computed by multiplying the Main Grid Distance by $.0412 per mile;

b. Main Grid Integration Terminal Factor—$.39;

c. Main Grid Miscellaneous Factor—$1.91;

d. Main Grid Terminal Factor—$.39; and

e. Main Grid Delivery Terminal Factor—$.52.

2. *Secondary System Charge.* The Secondary System Charge shall be the sum of one or more of the following factors associated with deliveries at 115 kV [and 69 kv] as specified in the Agreement:

a. Secondary Transformation Factor—$2.89;

b. Secondary System Intergration Terminal Factor—$.94;

c. Secondary System Distance Factor—The amount determined by multiplying the Secondary System Distance by $.2284 per mile;

d. Secondary System Intermediate Terminal Factor—$.94;

e. Secondary System Delivery Terminal Factor—$1.15.

3. *Intertie Charge.* For use of PNW-PSW Intertie facilities—$6.57.

B. *Partial-Year Service.* The monthly charge per kilowatt of billing demand shall be as specified in Section 2.A. for all months of the year except:

1. For unplanned firm service, such as emergency station service when a generating unit is down, the yearly charge shall be equal to one monthly charge as defined in Section 2.A. so long as the use during each year does not exceed 730 hours. If the use during each year exceeds 730 hours, the yearly charge shall be as specified in Section 2.A.

2. For agreements whose term is 5 years or less and which specify service for fewer than 12 months per year, the charge shall be:

a. During months for which service is specified, the monthly charge defined in Section 2.A., and

b. during other months, the monthly charge defined in Section 2.A. multiplied by 0.2.

Section 3. Determination of Billing Demand

Unless otherwise stated in the agreement, the billing demand shall be the largest of:

A. The Transmission Demand in kW's specified in the Agreement;

B. The highest hourly Measured or Scheduled Demand for the month; or

C. The Ratchet Demand.

Schedule IR-83—Integration of Resources

Section 1. Availability

This schedule supersedes IR-1 and is available for interregional firm transmission service and other appropriate services provided for electric power and energy using the FCRTS, exclusive of the Intertie Segments.

Section 2. Rate

The monthly charge shall be the sum of:

(1) $0.2628 per kilowatt of billing demand, except as otherwise provided in subsection (3) below, and

(2) $.00076 per kilowatt-hour of billing energy.

(3) For Points of Integration (POI) specified in Agreements as being short distance POI's, for which FCRTS facilities are used for a distance of less than 75 circuit miles, the demand charge shall be computed in accordance with the following formula:

$$[2 + \frac{8}{75} \text{ (transmission distance)}] \text{ \$0.2628 per kW of billing demand}$$

where:

The billing demand is the demand level specified in the Agreement for such POI, and the transmission distance is the circuit miles between such POI and the designated Point of Delivery (POD).

Section 3. Determination of Billing Demand and Billing Energy

The billing demand shall be as specified in the Agreement. The billing energy shall be the sum of all hourly amounts of power in kWh's wheeled for the billing month under the Agreement.

Schedule IS-83—Southern Intertie Transmission

Section 1. Availability

The schedule supersedes ET-2 with respect to deliveries using the Pacific Northwest—Pacific Southwest, or Southern, Intertie, and is available for all transmission on the Southern Intertie.

Section 2. Rate

The charge for transmission of non-Federal power on the PNW-PSW Intertie shall be 1.61 miles/kWh.

Schedule IN-83—Northern Intertie Transmission.

Section 1. Availability

This schedule supersedes ET-2 with respect to interregional delivery using the Northern Intertie and is available for all transmission on the Northern Intertie.

Section 2. Rate

The charge for transmission of non-Federal power on the Northern Intertie shall be 1.51 miles/kWh.

Schedule IE-83—Eastern Intertie Transmission

Section 1. Availability

This schedule supersedes ET-2 with respect to interregional delivery using the Eastern Intertie and is available for all non-firm transmission on the Eastern Intertie.

Section 2. Rates

The charge for transmission of non-Federal power on the Eastern Intertie shall be 2.17 mills/kWh.

Schedule ET-83—Energy Transmission

Section 1. Availability

This schedule supersedes ET-1 and ET-2, unless otherwise specified in the Agreement, with respect to delivery using FCRTS facilities other than the Southern Intertie, Eastern Intertie, or the Northern Intertie, and is available for nonfirm transmission between points in the Pacific Northwest upon BPA's determination of available capacity. This rate is not available for the transmission of energy which cannot be interrupted.

Section 2. Rates

The charge for such nonfirm transmission of non-Federal electric energy shall be 1.68 mills/kWh.

Schedule UFT-83—Use-of-Facilities Transmission

Section 1. Availability

This schedule supersedes UFT-1 and UFT-2, unless otherwise provided in the Agreement, and is available for firm transmission over specified FCRTS facilities.

Section 2. Rates

The monthly charge per kilowatt of Transmission Demand specified in the Agreement shall be one-twelfth of the annual cost of capacity of the specified facilities divided by the sum of Transmission Demands (in kilowatts) using such facilities. Such annual cost shall be determined in accordance with Section 3.

Section 3. Determination of Transmission Rate

A. From time to time, but not more often than once in each Contract Year, BPA shall determine the following data for the facilities which have been constructed or otherwise acquired by BPA, and which are used to transmit electric power and energy:

1. The annual cost of the specified FCRTS facilities, as determined from capital cost and annual cost ratios developed from the FCRTS financial statement, including interest and amortization, operation and maintenance, administrative and general, and general plant costs.

2. The yearly noncoincident peak demands of all users of such facilities.

B. The monthly charge per kilowatt of billing demand shall be one-twelfth of the sum of the annual cost of the FCRTS facilities used divided by the sum of Transmission Demands. The annual cost per kilowatt of Transmission Demand for a facility constructed or otherwise acquired by BPA shall be determined in accordance with the following formula:

$$\frac{A}{D}$$

where:

A = The annual cost of such facility as determined in accordance with A.1 above.

D = The sum of the yearly noncoincident demands on the facility as determined in accordance with A.2 above.

The annual cost per kilowatt of facilities listed in the Agreement which are owned by another entity, and used by BPA for making deliveries to the transferee, shall be determined from the costs specified in the Agreement between BPA and such other entity.

Section 4. Determination of Billing Demand

Unless otherwise stated in the Agreement, the factor to be used in determining the kilowatts of billing demand shall be the largest of:

A. The Transmission Demand in kilowatts specified in the Agreement;

B. The highest hourly Measured or Scheduled Demand for the month, the Measured Demand being adjusted for power factor; or

C. The Ratchet Demand.

Schedule TGT-1—Townsend-Garrison Transmission

Section 1. Availability

This schedule shall apply to all agreements which provide for the firm transmission of electric power and energy over transmission facilities of BPA's section of the Montana [Eastern] Intertie.

Section 2. Rate

The monthly charge shall be one-twelfth of the sum of the annual charges listed below, as applicable and as specified in the agreements for firm transmission. The Townsend-Garrison 500 kV lines and associated terminal, line compensation and communication facilities are a separately identified portion of the Federal Transmission System. Annual revenues plus credits for Government use should equal annual costs of the facilities, but in any given year there may be either a surplus or a deficit. Such surpluses or deficits for any year shall be accounted for in the computation of annual costs for succeeding years. Revenue requirements from firm transmission use will be

decreased by any revenues received from non-firm use and credits for all Government use. The general methodology for determining the firm rate is to divide the revenue requirement by the total firm capacity requirements. Therefore, the higher the total capacity requirements, the lower will be the unit rate.

If the Government provides firm transmission service in its section of the Montana [Eastern] Intertie in exchange for firm transmission service in a customer's section of the Montana [Eastern] Intertie, the payment by the Government for such transmission services provided by such customer will be made in the form of a credit in the calculation of the Intertie Charge for such customer.

During an estimated one to three-year period following the commercial operation date of the third generating unit at the Colstrip Thermal Generating Plant at Colstrip, Montana, the capability of the Federal Transmission System west of Garrison Substation may be different from the long-term situation. It may not be possible to complete the extension of the 500 kV portion of the Federal Transimission System to Garrison by such commercial operation date. In such event, the 500/230 kV transformer will be an essential extension of the Townsend-Garrison intertie facilities, and the annual costs of such transformer will be included in the calculation of the Intertie Charge. However, starting one month after extension to Garrison of the 500 kV portion of the Federal Transmission System, the annual costs of such transformer will no longer be included in the calculation of the Intertie Charge.

a. *Nonfirm Transmission Charge.* This charge will be filed as a separate Rate Schedule and revenues received thereunder will reduce the amount of revenue to be collected under the Intertie Charge below.

b. *Intertie Charge for Firm Transmission Service.*

$$\text{Intertie charge} = \left[\frac{(TAC/12 - NFR) \times (CR - EC)}{TCR}\right]$$

Section 3. Definitions

TAC=Total Annual Costs of facilities associated with the Townsend-Garrison 500 kV transmission line including terminals, and prior to extension of the 500 kV portion of the Federal Transmission System to Garrison, the 500/230 kV transformer at Garrison. Such annual costs are the total of (1) interest and amortization of associated Federal investment and the appropriate allocation of general plant costs, (2) operation and maintenance costs, (3) an allowance for Bonneville's general administrative costs which are appropriately allocable to such facilities, and (4) payments made pursuant to section 7(m) of Public Law 96-501 with respect to these facilities. Total Annual Costs shall be adjusted to reflect reductions to unpaid total costs as a result of any amounts received, under agreements for firm transmission service over the Montana Intertie, by the Government on account of any reduction in Transmission Demand, termination or partial termination of any such agreement or otherwise to compensate BPA for the unamortized investment, annual cost, removal, salvage, or other cost related to such facilities.

NFR=Nonfirm Revenues, which are equal to (1) the product of the Nonfirm Transmission Charge described in 2(a) above, and the total nonfirm energy transmitted over the Townsend-Garrison line segment under such charge for such month; plus (2) the product of the Non-Firm Transmission Charge and the total non-firm energy transmitted in either direction by the Government over the Townsend-Garrison line segment for such month.

CR=Capacity Requirement of a customer on the Townsend-Garrison 500 kV transmission facilities as specified in its firm transmission agreement.

TCR=Total Capacity Requirement on the Townsend-Garrison 500 kV transmission facilities as calculated by adding (1) the sum of all Capacity Requirements (CR) specified in firm transmission agreements described in section 1 and (2) the Government's firm capacity requirement. The Government's firm capacity requirement shall be no less than the total of the amounts, if any, specified in firm transmission agreements for use of the Montana Intertie.

EC=Exchange credit for each customer which is the product of (1) the ratio of investment in the Townsend-Broadview 500 kV transmission line to the investment in the Townsend-Garrison 500 kV transmission line, and (2) the capacity which the Government obtains in the Townsend-Broadview 500 kV transmission line through exchange with such customer. If no exhange is in effect with a customer, the value of EC for such customer shall be zero.

General Transmission Rate Schedule Provisions:

1. *Interpretation.* The provisions in the Agreement to which these General Tramsmission Rate Schedule Provisions (GTRSP) are attached as an exhibit shall be part of these GTRSP for the purpose of determining the meaning of any provision contained herein. If a provision in such Agreement is in conflict with a provision contained herein, the provision in the Agreement shall prevail.

2. *General Provisions:* Services provided under all rate schedules shall be subject to the provisions of the Bonneville Project Act, as amended; the Federal Columbia River Transmission System Act; the Pacific Northwest Electric Power Planning and Conservation Act; and these provisions. The meaning of terms used in these rate schedules shall be as defined in the Agreements or any of the above acts or provisions which are attached to the Agreements.

3. *Bonneville Service Area.* The Bonneville Power Administration (BPA) shall operate and maintain the Federal Columbia River Transmission System (FCRTS) within the Pacific Northwest and shall construct such improvements, betterments, system additions and replacements within the Pacific Northwest as it determines are appropriate and required to:

a. Integrate and transmit "electric power" from existing or additional Federal or non-Federal generating units;

b. Provide service to the BPA wholesale power and wheeling customers;

c. provide interregional transmission facilities; or

d. maintain the electrical stability and electric reliability of the Federal System.

4. *Availability of Transmission Service.* Any capacity in the FCRTS which BPA determines to be in excess of the capacity required to transmit Federal power will be made available to all utilities on a fair and nondiscriminatory basis by the application of schedules identified in the Schedule of Transmission Rates, dated 1983, or as subsequently revised.

5. *Billing Details:*

a. The Transmission Billing Determinant is the electric power quantified by the method specified in the Transmission Agreement or Transmission Rate Schedule. Scheduled power or metered power will be use.

b. Bills for transmission service will normally be computed and rendered monthly, generally on a calendar-month basis.

c. Bills not paid in full on or before the close of business of the twentieth day after the date of the bill shall bear an additional charge which is the greater of one-fourth percent (0.25%) of the amount unpaid or $50. Thereafter, a charge of one-twentieth percent (0.05%) of the sum of the initial amount remaining unpaid

and the additional charge herein described shall be added on each succeeding day until the amount due is paid in full.

Remittances received by mail shall be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicate the payment was mailed on or before the twentieth day after the date of the bill. If the twentieth day after the date of the bill is a Sunday or other nonbusiness day of the customer, the following day is the last day on which payment may be made to avoid such further charges. Payment made by metered mail and received subsequent to the twentieth day shall bear postal department cancellation in order to avoid assessment of such further charges.

BPA may, whenever a transmission bill or a portion thereof remains unpaid subsequent to the twentieth day after the date of the bill, and after giving 30 days' advance notice in writing, cancel the Agreement, but such cancellation shall not affect the customer's liability for any charges accured prior thereto.

If BPA is unable to render the customer a timely monthly bill which includes a full disclosure of all billing factors, it may elect to render an estimated bill for that month to be followed at a subsequent billing date by a final bill. Such estimated bill, if so issued, shall have the validity of, and shall be subject to, the same payment provisions as a final bill. Failure to receive a bill shall not release the customer from liability for payment. Billings under each rate schedule application are rounded to whole dollar amounts, by elimination of any amount of less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

d. For an initial operating period, not to exceed 3 months, beginning with the commencement of operation of a new generating plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof, BPA may agree to modify the measured or scheduled demand established for that period, or make other adjustments which are determined to be appropriate.

e. The transmission customer shall furnish BPA necessary information for making any computation required for the purposes of determining the proper charges for the use of the FCRTS and shall cooperate with BPA in exchanging such additional information as may be reasonably useful for respective operations.

6. *Adjustment for Power Factor.* The adjustment for power factor, when specified in this rate schedule or in the Agreement, may be made by increasing the amount delivered for each month by 1 percent for each 1 percent or major faction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in the Wholesale Power General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to the customer at a POD or for a system at any time that the average power factor for all classes of power delivered to the customer at such POD or for such system is below 75 percent lagging or 75 percent leading.

7. *Definitions.* Capitalized terms that are used in the Transmission Rate Schedules shall be as defined below, or, if not so defined, as defined in the Agreement.

a. *Agreement.* A transmission agreement between BPA and a transmission customer to which these rate schedules and provisions may be attached.

b. *Eastern Intertie.* Those transmission facilities consisting of the Townsend-Garrison 500 kV transmission line, including terminals and, prior to extension of the 500 kV portion of the Federal Transmission System to Garrison, the 500/230 kV transformer at Garrison.

c. *Electric Power* (or simply Power if no confusion would result without a modifier of mechanical, chemical, or electrical). Electric peaking capacity (kW), or electric energy (kWh), or both.

d. *Firm Transmission Service.* Transmission service which BPA provides for any non-BPA power scheduled or otherwise made available, limited only by the amount and time period specified in the Agreement. Firm transmission service is supplied for all types of power, such as firm, nonfirm, exchange, interruptible, or other.

e. *Integrated Network.* Those FCRTS facilities which primarily perform the function of bulk transmission of electric power in the Pacific Northwest, excluding facilities not segmented to the Network in the Cost of Service Analysis used in BPA's rate development.

f. *Main Grid.* As used in the FPT rate schedule, that portion of the FCRTS with facilities rated 230 kV and higher, exclusive of those designated as Interties.

g. *Main Grid Delivery Terminal.* As used in the FPT rate schedule, 230 kV or higher terminal facilities associated with a POD.

h. *Main Grid Distance.* As used in the FPT rate schedule, the distance in airline miles on the Main Grid between the POI and the POD, multiplied by 1.15.

i. *Main Grid Integration Terminal.* As used in the FPT rate schedule, the Main Grid Terminal facilities located at the POI.

j. *Main Grid Miscellaneous Facilities.* As used in the FPT rate schedule, switching, transformation and other backup facilities of the Main Grid required to integrate the Main Grid.

k. *Main Grid Terminal.* As used in the FPT rate schedule, terminal facilities on the Main Grid adjacent to the Secondary System or Main Grid Delivery Terminal.

l. *Measured Demand.* Except where deliveries are scheduled as hereinafter provided, the Measured Demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands delivered to a customer at each POD during each time period specified in the applicable rate schedule during any billing period. Such largest 60-minute integrated demand shall be determined from measurements made as specified in the contract. BPA, in determining the Measured Demand, will exclude any abnormal 60-minute integrated demands due to or resulting from (a) emergencies or breakdowns on, or maintenance of, the Federal System facilities, and (b) emergencies on the customer's facilities, provided that such facilities have been adequately maintained and prudently operated as determined by BPA. For those contracts to which BPA is a party and which provide for delivery of more than one class of electric power to the customer at any POD, the portion of each 60-minute integrated demand assigned to any class of power shall be determined as specified in the contract. The portion of the total Measured Demand so assigned shall constitute the Measured Demand for each such class of power.

If the flow of electric energy to a customer's system through two or more POD's cannot be adequately controlled because such points are interconnected within the customer's system, or the customer's system is interconnected directly or indirectly with the Federal System, the Measured Demand for each class of power for such system for any billing period shall be the largest of the hourly amounts of such class of power which are scheduled for delivery to the customer during each time period specified in the applicable rate schedule.

m. *Nonfirm Transmission Service.* Transmission service which BPA will provide for non-BPA power, only if and when it determines that capacity is available.

n. *Northern Intertie.* Those transmission facilities consisting of 2–500 kV lines between Custer substation and the United States-Canadian border, 1–500 kV line between Custer and Monroe substations, and 2–230 kV lines from Boundary Substation to the United States-Canadian border, and the associated substation facilities.

o. *Point of Integration (POI).* Connection points between the FCRTS and non-BPA facilities where power to be wheeled is made available to BPA.

p. *Point of Delivery (POD).* Connection points between the FCRTS and non-Federal facilities where non-Federal power wheeled is delivered to a customer by BPA.

q. *PNW–PSW Intertie.* Those transmission facilities consisting of 2–500 kV AC lines and 1–800 kV DC line between the John Day and Celilo substations and the Oregon-California border, and associated substation facilities.

r. *Ratchet Demand.* The maximum past or present demand established during the previous 11 billing months based on the highest scheduled demand during that time.

s. *Scheduled Demand.* The largest of hourly amounts of power wheeled which are scheduled by the customer during the time period specified in the rate schedules.

t. *Secondary System.* As used in the FPT rate schedule, that portion of the FCRTS facilities with operating voltage of 115 kV or 69 kV, exclusive of Main Grid facilities, Intertie facilities, and lower voltage (less than 69 kV) FCRTS facilities which may be used on a use-of-facility basis.

u. *Secondary System Delivery Terminal.* As used in the FPT rate schedule, a POD from a Main Grid substation at 115 kV or 69 kV, or a terminal located at a POI from the Secondary System.

v. *Secondary System Distance.* As used in the FPT rate schedule, the number of circuit miles of Secondary System transmission lines between the secondary POI or the Main Grid and the POD or the lower voltage FCRTS facilities which may be used on a use-of-facility basis, as specified in the Agreement.

w. *Secondary System Integration Terminal.* As used in the FPT rate schedule, the secondary Terminal Facility at the POI or the interconnection with the Secondary System.

x. *Secondary System Intermediate Terminal.* As used in the FPT rate schedule, the final terminal facilities before the delivery terminal in the Secondary System.

y. *Secondary Transformation.* As used in the FPT rate schedule, transformation from Main Grid to Secondary System facilities.

Major Concepts and Issues

BPA has prepared several studies in the process of developing the transmission rates presented in this Notice. They are the Load and Resource Forecast Study, the Revenue Forecast Study, the Revenue Requirements Study, the Cost of Service Analysis, the Time-Differentiated Long Run Incremental Cost Analysis and the Transmission Rate Design Study. The three latter studies have the most direct bearing on the rates filed in this Notice and are described in some detail below.

Prior to a discussion of the Transmission Rate Design Study, two major issues are described: the scaling of OY 1985 test year data, and unrecovered transmission system costs.

A. *Revenue Requirement Study.* The Bonneville Project Act, the Transmission System Act and the Regional Act set out criteria that require BPA to obtain revenue sufficient to recover the cost of producing, acquiring, conserving, and transmitting the electric power that BPA markets, to recover the cost of transmitting power for other parties, and to repay with interest the Federal investment in transmission and generation facilities in the FCRPS. The Revenue Requirement Study determines the minimum amount of revenue that is necessary to recover all costs of the cost evaluation period over the repayment period for the entire power system. It determines whether current rates will produce enough revenue to satisfy BPA's repayment obligation.

The Revenue Requirement Study for the initial rate proposal is based on revenue and cost estimates for fiscal years (FY) 1984 and 1985 adjusted to represent the 12-month test period commencing on July 1, 1984. If actual loads and costs differ from projected loads and costs, BPA may experience a revenue surplus or shortage. Small revenue shortages can be dealt with by deferring interest and amortization payments on appropriated funds, but sound business principles dictate that this be only a temporary means of satisfying cash shortages.

It is a common utility practice for capital projects to be partially financed from internally generated funds or current revenue. As a nonprofit agency, BPA is able to generate funds only from issuing debt or from rates. To continue its efforts to be fiscally sound, BPA has decided to raise the revenue requirement to accommodate the goal of financing through rates 5 percent of the BPA capital projects scheduled for completion during the rate period.

In order to meet its fiscal responsibility (which includes eliminating deficits and making planned amortization payments), BPA's Revenue Requirement Study reflects actual historic cash amortization, and assumes repayment of deferrals plus all normal scheduled amortization due by September 30, 1985. In addition, it reflects all of BPA's obligations under the Regional Act, including exchange costs. To assure that BPA will meet its repayment obligations, a cash lag has been added to the revenue requirement.

BPA's total revenue requirement, including transmission, as determined by the Revenue Requirement Study demonstrates the need for a 21.7 percent overall revenue increase for test year 1985.

B. *Cost of Service Analysis (COSA).* The COSA, along with certain adjustments detailed in the Transmission Rate Design Study, is designed to determine the cost of providing service to the various classes of customers and is used as a basis for evaluating the adequacy of the various classes of customers and is used as a basis for evaluating the adequacy of the various power sales and transmission rates currently in effect. Thus, the COSA is one standard which can be used in demonstrating that the costs of the FCRTS are equitably allocated between Federal and non-Federal power utilizing FCRTS.

1. *Test Period.* The COSA procedure begins with the selection of a test period and the determination of the investment, operating expenses, and loads involved in providing service during that year. For the initial transmission rate proposal, an operating year (OY) 1985 test period is used.

While the COSA employs an OY 1985 test period, the rate period actually begins eight months prior to the beginning of OY 1985. This has resulted in the need to develop cost data for OY 1984 as well, so that rates developed from the test period revenue requirement may be scaled to the necessary level during those months preceding OY 1985. This matter is discussed in more detail in Section IV. D.

2. *Functionalization.* In utility cost analyses, investment and operating costs are typically grouped by the functions the utility performs. For BPA

these functions have been identified as generation, transmission, and metering and billing. For this rate filing, metering and billing costs are assigned to the generation and transmission functions as specified in COSA Appendix G. In addition, a direction-of-effort study was performed to determine how administrative and general expenses should be functionalized.

3. *Classification.* Classification refers to the process by which costs are associated with either usage at the time of system peak (capacity), or total usage during a time period (energy). The approach that is commonly used to classify transmission costs is known as the fixed-variable method. Using this method, transmission costs are classified 100 percent to capacity based on the view that peak usage, not variable energy usage, determines the necessary transmission plant investment. In the COSA supporting this proposal, all transmission costs classified to capacity.

BPA has considered other means of classifying costs, acknowledging that some portion of transmission system costs are related to energy. BPA's TDLRIC Study proposes the use of a load factor method which would classify approximately 31 percent of transmission costs to capacity and 69 percent to energy. BPA may incorporate the use of this method into COSA and the IR-83 transmission rate for the final proposal, depending on the validity of arguments appearing in the record during the rate hearing process. In the intial proposal the IR-83 rate contains both a demand and energy billing determinant.

4. *Segmention.* Although BPA operates a regionwide transmission system, some segments of the FCRTS are not needed to provide service to certain classes of power. The FCRTS has been separated into nine segments, so that the costs of each segment can be separately identified and allocated in relation to the service being provided. The costs of only four of the nine segments, the integrated network and the three Interties, affect non-Federal transmisson rates. Costs of the other transmission segments (generation-integration, fringe area, preference and Federal agency customer delivery facilities, direct-service industrial customer delivery facilities, and investor-owned utility delivery facilities) are generally assigned to and recovered from power sales rates.

5. *Allocation.* After transmission costs are functionalized, segmented, and classified, BPA uses ther Monthly Peak Responsibility Method (12 CP method) to allocate transmission system costs to each class of service. BPA has chosen the 12 CP method to allocate transmission costs for various reasons including: (1) The 12 CP method recognizes diversity and the integrated nature of the transmission system, (2) the 12 CP method reflect the use of BPA's system to transmit energy throughout the year, and (3) BPA's transmission loading is fairly uniform throughout the year. The 12 CP allocation factors used in the COSA for non-Federal power are calculated from the power expected to use the system according to contractual arrangements.

C. *Scaling Factor.* This rate filing develops rates for a twenty month period ending on June 23, 1985. The OY 1985 test year develops costs for the final twelve months of this period, but rates developed from these cost estimates may not accurately reflect the revenue requirement for the eight month period from November 1, 1983 through to June 30, 1984. To adjust these rates downward so that they will recover no more than their required costs during the final eight months of OY 1984, a scaling factor has been devised. This scaling factor is based on costs and revenue from all of BPA's rates, both wholesale power and transmission. The factor is applied to each of the OY 1985 rates to yield rates applicable to the last eight months of OY 1984.

The application of this scaling factor to BPA's firm wheeling customers is complicated because BPA's formula power transmission contracts are limited to rate adjustment periods of one, three or five years. For the one year contracts, rates adjusted by the scaling factor may be applied on November 1, 1983, but these contracts could not be readjusted to recover OY 1985 costs until 12 months later, which is well into the new operating year. The 5-year contract also may be changed at the beginning of the rate period, but would not be adjustable again until it expires in 1988. The three year contracts, however, cannot be adjusted until July 1, 1984. Thus the scaling factor, as described, will not be applicable to three year firm wheeling contracts.

Accordingly, the scaling factor is applied to wheeling rates in the following manner. For all transmission rates which are changeable on November 1, 1983 (except the five year FPT contract) the rate will be set to a single level derived from weighted average rates during the entire 20-month period. For transmission rates that are not changeable until July 1, 1984, and for the five year FPT contract, the rate level will be based on OY 1985 costs.

D. *Federal Energy Regulatory Commission (FERC).* The FERC confirmed and approved BPA's 1976 transmission rate filing in Docket No. E-9563-000. The transmission rates developed in this proposal are consistent with the FERC's order in that docket.

E. *Transmission Rate Design Study.* 1. *Transmission System Revenue Requirement Adjustment.* Prior to the design of transmission rates, the COSA-derived network wheeling revenue requirement must be adjusted to account for revenue in excess of allocated costs. Revenue received from the ET-83 and IS-83 rates, and the Wholesale Nonfirm Energy Rate (NF-83) are credited against the allocated costs of service derived in the COSA. The credit from the NF-83 rate is functionalized between generation and transmission by considering the transmission portion of the rate as the average cost per kilowatthour of transmitting energy for wholesale power services (3.3 mills/kilowatthour). The transmission credit is obtained by multiplying this average cost by the estimated nonfirm energy sales. It is then divided among those segments of the transmission system which carry non-firm energy sales, except the PSW Intertie, in proportion to their allocated costs. The revenue associated with the ET-83 and IS-83 rates are credited entirely to those segments that are used in providing the service.

2. *Fixed Contract Revenue Deficiencies.* BPA provides transmission service to certain classes of power at rates which, by contract, cannot be changed unilaterally. Because the transmission rates are all set to collect revenue sufficient to recover all costs, including those related to contracts for which rates cannot be increased, any revenue deficiency must be assigned to other classes. One fixed rate contract is the transmission agreement for Columbia Storage Power Exchange (CSPE) power. As CSPE arrangements benefit power sales customers, the revenue deficiency is assigned to Federal power. Other fixed rate contracts include transmission for Tacoma City Light's Mayfield-Mossyrock projects and all those FPT contracts that are not changeable until July 1, 1984. Any revenue deficiency arising from these contracts is recovered from all power utilizing the FCRTS.

3. *Proposed Wheeling Rate Schedules.* a. *Formula Power Transmission (FPT).* The FPT-83 rate schedules are available for the firm wheeling of power. The form of this rate includes a distance or mileage component for transmission lines and various transformation and terminal charges. The FPT rate form is

designed to reflect a wheeling formula which has been prescribed historically by contract provisions.

In the design of the FPT-83 rate, the first step is to quantify costs for the specific types of transmission facilities treated in the rate components. Estimates of the use of these facilities are determined from a power flow simulation of the projected peak load period for the test year. Such power flow simulation assumes certain resource and load conditions that BPA believes are reasonable for normal hydro conditions. Unit costs for the FPT rate components are derived by dividing facility cost by power flow facility use.

b. *Integration of Resources (IR).* The IR-83 rate involves a change toward a more flexible and comprehensive transmission service designed to reflect BPA's transmission policy. The IR service does not recognize specific contract paths, but rather provides network-wide access to the FCRTS. The COSA-derived revenue requirement and the concepts used in the COSA are reflected in the design of the IR-83 rate schedule.

The IR-83 rate is calculated by dividing the adjusted revenue requirement for the class into two equal parts to reflect a fifty-fifty classification of costs to capacity and energy. The quotient of these costs and the appropriate billing determinant (contract demand for capacity-related costs and total energy usage for energy) yields the rates.

While the IR rate schedule is meant to effectuate BPA's policy for future firm wheeling service, FPT contracts are still abundant and may remain in effect for some time. Utilities, therefore, may choose to remain on the FPT service or enter into long-term contracts which incorporate the concepts included in the IR-83 schedule. It is anticipated that this process could result in a revenue deficiency, since utilities may choose the rate schedule which yields the lower total charge for transmission service. BPA has estimated the amount of this revenue deficiency and adjusted the firm wheeling revenue requirement to recover those costs.

Another potential contributor to a revenue deficiency is the short distance discount, which is described as a part of the IR-83 rate schedule. Utilization of this discount would cause an underrecovery of costs which must be adjusted for in the firm wheeling revenue requirement. No adjustment for short distance is made in this initial proposal because utilization of the short distance discount is expected to be minimal.

c. *Use of Facilities Transmission (UFT).* An additional rate schedule based on existing firm contracts is the Use of Facilities (UFT-83) Rate Schedule. The UFT-83, which contains a cost formula rather than a specific rate, does not differ greatly from its predecessor. Its applicability has been broadened to include all FCRTS facilities and flexibility has been added to the annual cost formulation. The intent of these charges is to supersede as many UFT-1 arrangements as contracts permit.

d. *Incidental Energy (ET) and Intertie (IN, IE, IS) Transmission.* For this rate filing, new rate schedules are being offered on the Canadian (Northern), Montana (Eastern), and Pacific Northwest-Pacific Southwest (Southern) Interties which apply to all wheeled power on these segments, whatever the characteristics of the power. The ET rate, which in the past had an intertie component, will be limited to intraregional FCRTS facilities which excludes the Interties.

Since the schedule for Energy Transmission (ET-83) class of service is not allocated costs in the COSA, it is necessary to determine the level of the rate by other means. For this rate filing, the ET-3 rate is designed to approximate the rate level of firm wheeling charges on the network by dividing the COSA revenue requirement for the firm wheeling class by the expected energy usage of firm wheeling on the system. This rate level is approximately equal to twice the energy rate under IR-83.

This method contrasts with the method used to develop ET rates in the 1981 rate filing by its simplicity, but it is designed to achieve a similar result. Since firm wheeling service on the interties is not recognized except by a few existing contracts, this method for nonfirm service is not appropriate for developing the intertie rate schedules, specifically the Intertie South (IS-83) and Intertie North (IN-83). Instead, the methodology used in 1981 to develop ET-2 rates is applied. This methodology is intended to recover the unit cost per monthly coincident peak kilowatt of all firm transactions on the intertie segments of the transmission system by dividing the COSA-derived costs for those segments by the estimated monthly coincident peak kilowatts. The rates are calculated by applying this unit cost per kilowatt to the estimated load factor of the intertie customer class. The Eastern Intertie (IE-83) develops a rate by dividing total costs by estimated generation of Colstrip energy, since this segment has no historical loads upon which to draw.

e. *Townsend-Garrison Transmission (TGT-1) Rate Schedule.* BPA and six utilities who own Colstrip Projects 1-4 have agreed to build an interregional transmission intertie (Eastern or Montana Intertie), between the Broadview substation and the new Garrison substation, for the primary purpose of transmitting the power from Colstrip Projects 1-4 to points of delivery specified in the Colstrip Transmission Agreements. BPA is responsible for constructing the section of the Eastern Intertie between Garrison and Townsend, and plans to recover the costs of that section as a separately identified portion of the Federal Transmission System. This section of the Eastern Interitie is expected to be operational by October 1983.

The TGT-1 rate will apply to all agreements which provide for the firm transmission of electric power and energy over transmission facilities of BPA's section of the Eastern Intertie. The TGT-1 rate is a use of facilities rate which is designed to recover the total annual costs of facilities associated with the Townsend-Garrison 500kV transmission line including terminals, and, prior to extension of the 500kV portion of the Federal Transmission system to Garrison, the 500kV transformer at Garison.

Other Issues. BPA is examining the environmental impacts of the proposed transmission rate increase. An appropriate environmental review under DOE's NEPA guidelines will be prepared and intergrated into the development of transmission rates, and will be made available at least 30 days before the effective date of this year's final rate proposal.

BPA is also exploring the possibility of developing one or more special rates based on the cost to BPA of revenue not received. By allowing competitors access to particular markets (notably California markets), BPA tends to increase both the volume of spilled water and the frequency of applying the spill rate. BPA estimates that such cost is approximately six mills for each kilowatthour of energy wheeled to particular markets. Although such a rate is not specifically identified in this Initial Proposal, BPA intends to present testimony relating to revenue impacts and potential rate levels in order to develop a full and complete record. If the record affirms the desirability of such a rate, BPA would plan to include it in the Final Proposal for Transmission Rates.

Issued in Portland, Oregon, March 18, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 83-7795 Filed 3-25-83; 8:45 am]

BILLING CODE 6450-01-M

Proposed Wholesale Power Rate Adjustment, Public Hearings, and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of Proposed Wholesale Power Rate Adjustment, Public Hearings, and Opportunities for Review and Comment. BPA File Number: WP-83 Bonneville Power Administration (BPA) requests that all comments and documents which become part of the Official Record compiled in the process of adjusting wholesale power rates contain the file number designation WP-83.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act (Regional Act or Act) enacted on December 5, 1980, confirms BPA's obligation to establish and periodically revise BPA's rates so that they are adequate to recover, in accord with sound business principles, the costs associated with the production, acquisition, and transmission of electric power, and to recover the Federal investment in the Federal Columbia River Power System (FCRPS).

BPA is proposing to revise its wholesale power rate schedules in order to produce sufficient revenue to fulfill its statutory requirements. Section 7 of the Regional Act directs the establishment of rates applicable to all power sales provided for in the Act.

Opportunities will be available for interested persons to review the proposed rates and the supporting studies, to participate in hearings, and to submit written comments. While BPA welcomes public comment on its entire proposal, it particularly requests comments on Section IV of the Notice that deals with revenue levels and rate design issues. During the development of the final rate proposal, BPA will evaluate all written and oral comments received in this process. Consideration of comments and more current data may result in the final rate proposal differing from the rates proposed in this Notice.

DATES: Persons wishing to become a formal "party" to the proceedings must notify BPA in writing of their intention to do so. The notification must be received by April 9, 1983, and should be addressed as follows: Hon. Seymour Wenner, Hearing Officer, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Customers of BPA who provide notice are parties of right. Others may become parties by demonstrating in their notice and at the Prehearing Conference that they would represent a significant and otherwise unrepresented interest. The notice should contain: (1) the name of the person or entity claiming status as a party; (2) the person who will be representing the party; (3) whether the person or entity claiming status as a party has a contractual relationship with BPA that could be affected by the proposed rates; and (4) if no contractual interest exists, the interest the person believes would be served by their being a party. All timely applications will be ruled on by the Hearing Officer.

A Prehearing Conference, required by the rate procedures, will be held before the Hearing Officer at 9 a.m. on April 11, 1983, in the Cafeteria, Washington-Monroe High School, 531 SE. 14th Avenue, Portland, Oregon. Registration for the prehearing conference will begin at 8:30 a.m.

It is expected during the Prehearing Conference that hearing dates will be set for the presentation of direct cases, rebuttal cases, cross-examination, oral argument, and briefs. A notice of the dates and times of the hearings will be mailed to all parties of record. All formal hearing sessions will be held in the Cafeteria, Washington-Monroe High School, 531 SE. 14th Avenue, Portland, Oregon.

Two sets of field hearings regarding BPA's proposal will be held at various regional locations. During the first set, BPA will present to the public a synopsis of the rate proposal and receive comments from the general public. The public's comments will be subject to cross-examination by the parties and BPA. Presentation of testimony and evidence from formal parties will not be allowed at the field hearings. Registration for the hearings will be at 7 p.m., and the hearings will begin at 7:30 p.m. The dates and locations are:

April 11, BPA Auditorium, 1002 NE. Holladay Street, Portland, Oregon.

April 12, Eugene Hilton, Hellman Room, 66 East Sixth Avenue, Eugene, Oregon.

April 13, Bicentennial Pavilion Rotunda, 1313 Market Street, Tacoma, Washington.

April 14, Landmark Best Western Motel, 4200 200th SW, Lynnwood, Washington.

April 18, Burley Inn, 800 North Overland Avenue, Burley, Idaho.

April 19, Village Red Lion, Blackfoot Room 100 Madison, Missoula, Montana.

April 20, Ramada Inn, International Airport, Spokane, Washington.

April 21, Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington.

A second series of field hearings will be scheduled near the end of the formal hearings. These field hearings will provide the public an additional opportunity to comment based on their review of the evidence presented in the formal hearings. BPA will consider the public's comments in the evaluation of the Record. The hearing schedule and locations will be announced in newspapers in the region.

Written comments may be submitted until the close of the hearings. The last day for receipt of written comments will be specified in a later **Federal Register** Notice.

ADDRESS: Written comments not submitted at the hearings should be submitted to the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Written comments submitted by the close of the hearing will be made part of the record.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212; 503-230-3478. BPA maintains toll-free lines for the use of persons within the region. Oregon callers may use 1-800-452-8429; callers in Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California may use 1-800-547-6048. Additional information is available from:

Mr. George Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377.

Mr. Richard Casad, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: BPA published in the **Federal Register** a notice of "Intent to Revise Wholesale Power Rates to Become Effective November 1, 1983, Request for Recommendations and Suggestions" (48 FR 4028) on January 28, 1983, and a notice of "Intent to Revise Hanford Extension Energy Rate to Become Effective November 1, 1983, Request for Recommendations and Suggestions" (48 FR 7001) on February 17, 1983. The Notices of Intent indicated that, based on contract provisions presently in force and proposed with BPA's customers, the revised rates are expected to become effective on November 1, 1983.

BPA developed a study of its financial situation to determine the amount of revenue required to meet these obligations. The total necessary revenue increase is 20.9 percent. This necessary revenue increase, when applied to the rate classes, translates into an increase of 29 percent in the Priority Firm rate and a decrease of 7 percent for the Surplus Firm Power rate. The New Resource Firm rate and Industrial Firm rate stayed approximately the same. The determination for the Industrial Firm rate does not reflect the effect of the Exchange Adjustment included in the current rate, which lowers the unit cost of power in the DSI's.

The proposed wholesale power rates have been prepared in accord with BPA's statutory authority to develop rates, including the Bonneville Project Act of 1937, as amended, 16 U.S.C., 832e and f (1976); the Flood Control Act of 1944, 16 U.S.C., 825 *et seq.* (1976); the Regional Preference Act, 16 U.S.C., 837 *et seq.* (1976); the Federal Columbia River Transmission System Act, 16 U.S.C., 838g and h (1976); and the Pacific Northwest Electric Power Planning and Conservation Act of 1980, 16 U.S.C., 839 *et seq.* (Supp. V., 1981).

In developing the proposed wholesale power rates, BPA considered revenue requirements, cost of service, incremental costs, conservation, environmental impacts, ease of administration, revenue stability, rate continuity, ease of comprehension, economic efficiency, and statutory obligations. The major studies that have been prepared to support the proposed wholesale rates will be available for examination on March 28, 1983, at BPA's Public Involvement Office, BPA Headquarters Building, 1002 NE. Holladay Street, Portland, Oregon. The studies also may be requested by phone or in writing from BPA's Public Involvement Office and will be available at the Prehearing Conference. The studies are:

1. Revenue Requirement Study.
2. Load and Resources Study.
3. Revenue Forecast Study
4. Cost of Service Analysis
5. Time-Differentiated Long Run Incremental Cost Analysis
6. Wholesale Power Rate Design Study

In developing these studies, consideration was given to the comments and recommendations received from BPA's customers and the public in response to BPA's Notice of Intent.

The environmental impacts of the proposed rates also have been considered. A draft Environmental Impact Statement documenting the impacts of the proposed rates and alternatives will be available for examination shortly. Its availability will be announced by a separate notice published in the **Federal Register.**

I. Procedures Governing Rate Adjustments and Public Participation

Section 7(i) of the Regional Act provides procedures for encouraging the participation of the public in the development of BPA's rates. The procedures outlined in the Act differ from BPA's published "Procedure for Public Participation in Major Regional Power Policy Formulation" (46 FR 26368, May 12, 1981), of which earlier versions governed BPA rate adjustments prior to the Regional Act. BPA prepared Rules of Procedure Governing Rate Adjustments (46 FR 11697, February 10, 1981) that were used in the 1981 BPA Wholesale Power and Transmission Rate Hearings conducted from February through May 1981. After providing notice, accepting comments and holding a hearing, BPA amended and published its "Procedures Governing Bonneville Power Administration (BPA) Rate Adjustments" by **Federal Register** Notice of February 10, 1982, (47 FR 6240) which were used in the 1982 wholesale power rate filing. Those latter procedures will be followed for the 1983 wholesale power and transmission rate filings. The proceedings for BPA's proposal to adjust transmission rates will be combined with the proceedings for BPA's proposal to adjust wholesale power rates.

The Regional Act prescribes a **Federal Register** Notice announcing the proposed rates; one or more hearings; the opportunity to submit written views, data, questions, and arguments outside the hearings; and a decision by the Administrator based on the record developed during the rate process. BPA procedures expand these requirements. They provide for publication of a Notice of Intent to revise rates followed by a Notice of the proposed rates, a prehearing conference, hearing, receipt of written comments, preparation of decision documents, a decision, and the transmittal of the decision with supporting documentation to the Federal Energy Regulatory Commission (FERC).

The process begins with publication of the Notice of Intent to revise rates. This is followed by publication of this Notice of the Proposed Rates, which includes the proposed rates; a discussion of the research, studies, analyses, and other available information in support of the proposed rates; the deadline for claiming status as a "party;" and the beginning date for the hearing.

The procedures further provide for a Prehearing Conference if scheduled by the Hearing Officer. A Prehearing Conference has been scheduled before the Hearing Officer at 9 a.m. on April 11, 1983, in the cafeteria at Washington-Monroe High School, 531 S.E. 14th Avenue, Portland, Oregon. Registration for the prehearing conference will begin at 8:30 a.m., and the conference will commence at 9 a.m. on Monday, April 11, 1982, with the Honorable Seymour Wenner presiding.

Issues for discussion at the Prehearing Conference may include disputes concerning status as a party, discovery, the scope of cross-examination, hearing schedules, and other pertinent matters. BPA will prefile the testimony of its witnesses at the Prehearing Conference.

BPA will also convene a series of public hearings at certain locations throughout the region. The purpose of these hearings is to present to interested members of the public a synopsis of BPA's rate proposal and to receive comments, views, and opinions from the general public. The public's comments will be subject to cross-examination by the parties and BPA. Presentation of testimony and evidence from formal parties will not be allowed at these sessions. The hearings will be held at the times and locations previously listed. The conduct of these hearings will be substantially the same as that of the public field hearings held for BPA's 1981 and 1982 rate proceedings. BPA staff will present a synopsis of the proposed rates followed by comments from the public. The public will have an opportunity to ask questions about the proposed rates.

BPA finds it necessary to distinguish between "participants in" and "parties to" the hearings. During the field hearings, BPA will receive comments, views, opinions, and information from "participants," who are defined in the procedures as interested persons who may express their views at a hearing, but who may not cross-examine other

witnesses, participate in the Prehearing Conference, or serve or be served with documents. Participants, however, will be provided regular letters during the rate hearings summarizing the proceedings and are provided the opportunity to request materials presented during the hearings. Participants' written rebuttal will be made part of the Official Record. The "participants" category of interest has been established to give the public the maximum opportunity to participate and have its views considered without assuming the obligations incumbent upon the "parties."

The second category of interest is that of a "party." A party may be either a party of right because of its legal and/or contractual relationship with BPA, and hence, its direct interest, or it may be a person seeking to represent a significant and otherwise unrepresented interest in the hearings. Parties may participate in prehearing conferences, may call and cross-examine witnesses, and are entitled to service of documents from all other parties. Parties may also be cross-examined and required to serve documents on the other parties. To avoid unnecessary delay, cross-examination by parties may be limited by the Hearing Officer. Where two or more parties have substantially like interests and positions, the Hearing Officer may, to expedite the hearing, order appropriate limitations on the number of attorneys or parties appearing *pro se* who will be permitted to cross-examine witnesses as well as file motions and objections on behalf of such parties. If a party demonstrates that it would not be represented adequately in the joint presentation of an issue or issues, the Hearing Officer may permit separate examination or argument regarding such issue or issues.

In order to facilitate discovery and promote the efficient use of cross-examination, the Hearing Officer may order BPA, the parties, or both, to make witnesses available for clarifying sessions. BPA expects that the series of field hearings will be followed by clarification sessions, the presentation of direct cases, the presentation of rebuttal cases, cross-examination, oral argument, and briefing. The times for these proceedings will be established by the Hearing Officer at the prehearing conference and will be announced in a subsequent order that will be served upon all parties of record.

After the close of the hearings, BPA will file a brief and an Evaluation of the Record. The Hearing Officer will extend an opportunity to other parties to evaluate the record and analyze the law through briefs. The Evaluation of the Record will provide a written evaluation of the Record addressing significant technical issues. The Hearing Officer also will extend an opportunity to all parties and BPA to file reply briefs.

Persons need not attend the hearings in order to have their views included in the Record. Written comments may be included in the Record if they are submitted before the close of the hearings. Written views, data, questions, and arguments should be submitted to BPA's Public Involvement Manager.

The Record will include, among other things, the transcripts of the hearings, written material submitted by the parties and participants, documents developed by the BPA staff, and other material accepted into the Record by the Hearing Officer. The Hearing Officer then will review the Record, will supplement it if necessary, and will certify the Record to the Administrator for decision.

The Administrator will develop the final proposed rates based on the entire Record, including the Record certified by the Hearing Officer, comments received from participants in the field hearings, other material and information submitted to or developed by the Administrator, and any other comments received during the rate development process. The basis for the final proposed rates will be supported by the Administrator's Record of Decision. The Administrator will serve copies of the Administrator's Record of Decision on all parties and will file the final proposed rates together with the Record with FERC for confirmation and approval.

II. Elements of the Regional Act

The rate schedules contained in this publication are proposed in accord with the Regional Act, which was signed into law on December 5, 1980. BPA's 1981 and 1982 rate schedules also were proposed in accord with the Regional Act. Prior to the Act, BPA allocated costs of resources from a single block, the FCRPS, and designed rates to recover those costs from limited classes of customers. Now there are two additional distinct blocks of resource costs, and BPA's services extend to all classes of customers within the Pacific Northwest. Accordingly, the new rate schedules reflect many features contained principally in the Act's rate directives (section 7), as well as the conditions related to classes of customers and services contained in the Act's power sales directives (section 5).

Most importantly, the Act places on BPA a responsibility to all the electric power consumers in the region. While protecting the historic preference and priorities of public bodies and cooperatives, the Act authorizes BPA to extend the benefits of low cost Federal power to residential and small farm consumers; to share the burdens, risks, and benefits of meeting the load growth requirements of all requesting utilities; to provide a positive inducement to individual utilities to accept the considerable burdens of achieving conservation and developing renewable resources; to accept the risks and costs of meeting the entire region's power supply deficits; and to provide access for all of BPA's regional firm loads to the reserves provided by BPA rights to restrict deliveries to industrial customers served directly by BPA.

A. *Services.* BPA's public body, cooperative and Federal agency customers will be able to have their current and future requirements met by BPA. In addition, the residential and small farm consumers of investor-owned utilities (IOU's) will share in the benefits of what are now BPA's lowest cost resources.

The IOU's net firm power requirements in the region (in excess of their own firm resources in the year prior to the Act) also can be served by BPA if the utility seeks such service. These loads would be served at a different rate as described below, but would retain the benefits of system integration, reserves, risk sharing, and nonfirm energy supplies.

BPA's existing direct-service industrial (DSI) customers have received new 20-year contracts for industrial power. These contracts include significant BPA rights to restrict service to the DSI's. These rights provide the region with a major portion of the planning and operating reserves that help to keep costs lower to all of the region's consumers.

B. *Costs.* The Act identifies three distinct resource pools, commonly referred to as the Federal base system resources (FBS), the exchange resources under section 5(c) of the Act (Exchange), and new resources (NR).

The first pool, the FBS, is defined by section 3(10) of the Act as (1) the FCRPS hydroelectric projects; (2) the resources acquired by the Administrator under long-term contracts in force on the effective date of the Act; and (3) the resources acquired as necessary to replace any reductions in capability of the components of (1) and (2). For the test year 1985, the FBS used in developing rates includes the existing hydroelectric system 30 percent of the output of the Trojan nuclear plant, power from the Hanford Generating

Project (HGP), and the net-billed portions of the Washington Public Power Supply System plants 1, 2, and 3.

The second resource pool, Exchange, consists of the power that BPA purchases from utilities, primarily IOU's, for the direct benefit of their residential and small farm consumers. Commencing on October 1, 1981, the amount of power purchased was equal to 60 percent of the residential and small farm loads of the individual utility and increases by 10 percentage points each July 1 through 1985. For the 1985 test year, the power eligible for exchange purchase is equal to 90 percent of the residential and small farm loads of the individual utility in the region. BPA is directed to acquire the power at the offering utility's average system cost. The average system cost is determined using a methodology developed by BPA, pursuant to section 5 of the Act, in consultation with its customers, State regulatory bodies in the region, and the Pacific Northwest Electric Power and Conservation Planning Council (Regional Council). (FERC approved BPA's methodology on an interim basis on October 1, 1981 (46 FR 50517, October 14, 1981).) BPA must then sell an equivalent amount of power to the utility at the same rate that is in effect for sales of wholesale firm power to BPA's public body, cooperative, and Federal agency customers. The benefits of this "exchange" are to be passed through to the participating utility's residential loads within that State.

While the exchange provisions of the Act were presumed to benefit primarily investor-owned utility residential ratepayers, the average system cost methodology now in effect on an interim basis permits publicly owned utilities to exchange. Thus, a portion of the projected exchange resource, exchange cost, and exchange load in this proposal is attributable to this public agency exchange.

The third resource pool, NR, is the "new resource" pool. It will include all new resources developed, purchased, or otherwise acquired by BPA to meet the load growth of investor-owned utilities plus any of their firm power deficit in the year prior to December 5, 1980, which they ask BPA to meet. This pool also includes resources acquired to meet the new large single load (section 3(13) of the Act) requirements of BPA's public body, cooperative, or Federal agency customers.

C. *Rates.* The costs of the various resource pools described above, plus the other costs incurred by the Administrator, must be recovered in a manner described in section 7 of the Act, including provisions of other applicable law.

Section 7(b) directs the Administrator to establish a rate or rates for power sold to meet the general requirements of the public body, cooperative, and Federal agency customers within the region as well as power sold to utilities participating in the residential power exchange to serve their residential and small farm consumers. For test year 1985, 7(b) loads exceed the capability of the FBS. Consequently, a portion of BPA's exchange resources is allocated to the 7(b) rate class. For test years 1985, the DSI's are basically served by exchange resouces remaining after serving 7(b) load. In the test year 1985, the exchange is limited to 90 percent of the exchanging utilities' residential and small farm loads. For test year 1985, the DSI rate will recover the majority of costs that BPA pays for power from the utilities participating in the section 5(c) exchange. BPA does not plan for or acquire resources to serve the top quartile (approximately 25 percent) of the DSI load. Instead, the availability of nonfirm energy and the flexibility of the hydro system to move water forward in time are used to meet this load. The opportunity cost assigned to top quartile service is based on the nonfirm energy rate. The overall DSI rate is adjusted pursuant to section 7(c)(3) of the Act in recognition of the value of the forced outage, stability, and plant delay reserves provided through restriction rights on delivery of power to meet the DSI's loads.

Section 7(f) of the Act directs the establishment of rates that will be charged for all other firm power sales made within the region by the Administrator. Loads served under these rates may be the load growth or firm deficits of the IOU's which BPA is obligated to serve under the Act, if requested to do so by the individual IOU's. Section 7(f) rates also appy to service to preference customers' new large single loads as defined in the Act and which are excluded from service under the section 7(b) rate. Exchange resources will be used to serve the load growth and new large single loads provided for in section 7(f).

Another significant service addressed in section 7 of the Act is BPA's sale of nonfirm energy. Section 7(k) of the Act applies the standards of specified statutes to BPA's nonfirm energy sales, but provides no new rate directives for such sales. BPA plans its long-term recovery of revenue on the basis of average water conditions. The nonfirm energy revenues under average water greatly exceed the small amount of cost allocated to the provisions of nonfirm service. Consequently, the manner in which nonfirm energy is used, the nonfirm rate, and the distribution of this revenue in excess of costs can have significant impacts on the various classes of service. The revenue earned from sales of nonfirm energy are used, in general, to reduce the cost of firm power from the resources that produced, or contributed to the nonfirm revenues. The BPA proposal essentially provides that the preference customers and the residential and small farm consumers of participating utilities continue to receive those revenue benefits from nonfirm sales that are attributable to the FBS resources (including the revenue benefits from the direct use and displacement of these resources).

This extensive introduction to the rate proposal is provided because BPA is well aware that its formulations of rate structures required to reflect the complex requirements of the Regional Act will benefit from careful review and constructive comments. BPA requests that customers, State agencies, and the general public consider the proposed rates in terms of their broad purposes and provide recommendations that would improve our region's ability to cooperatively achieve those purposes.

III. Wholesale Power Rate Schedules and General Rate Schedule Provisions

Schedule PF-83—Priority Firm Rate

Section I. Availability

This schedule is available for the contract purchase of firm power to be used within the Pacific Northwest.

Priority Firm Power may be purchased for resale, for direct consumption, for construction, for test and start-up, and for station service by public bodies, cooperatives, and Federal agencies.

Utilities participating in the exchange under section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) may also purchase Priority Firm Power pursuant to the Residential Purchase and Sale Agreements.

In addition, BPA may make Priority Firm Power available to those parties participating in exchange agreements specifying use of the Priority Firm rate for determining the amount of power to be exchanged. This schedule supersedes Schedule PF-2 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses

immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods.

A. Demand Charge

1. For the billing months December through April, Monday through Saturday, 7 a.m. through 10 p.m.: $5.50 ($5.70) per kilowatt of billing demand.

2. For the billing months May through November, Monday through Saturday, 7 a.m. through 10 p.m.: $2.39 (2.48) per kilowatt of billing demand.

3. All other hours: No demand charge.

B. Energy Charge

1. For the billing months September through March: 16.1 (16.7) mills per kilowatthour of billing energy.

2. For the billing months April through August: 12.9 (13.4) mills per kilowatthour of billing energy.

C. Unauthorized Increase Charge

1. 83.0 mills per kilowatthour.

2. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an unauthorized increase pursuant to the Billing Demand subsections of section III of this rate schedule. That amount which BPA actually treats as unauthorized increase pursuant to the Billing Demand subsections of section III shall be excluded from the total of the integrated or scheduled demands used to determine the amount which may be considered an unauthorized increase under the Billing Energy subsections of section III.

Section III. Billing Factors

In this section billing factors are listed for each of the following types of purchasers: computed requirements purchasers (section III.A), purchasers of residential exchange power pursuant to the Residential Purchase and Sale Agreements (section III.B), metered requirements purchasers and those priority firm purchasers not covered by sections III.A and III.B (section III.C), and all purchasers of priority firm power during a period of insufficiency (section III.D). If BPA has provided the purchaser with notice of insufficiency, the billing provisions of section III.D shall take precedence over the billing provisions of sections III.A, III.B, and III.C.

A. Computed Requirements Purchasers

Purchasers designated by the BPA as computed requirements purchasers either pursuant to section IV.B.3 of the General Rate Schedule Provisions or pursuant to power sales contracts executed after December 5, 1980, shall be billed in accordance with the provisions of this subsection.

1. *Billing Demand.* a. The billing demand for actual and planned computed requirements purchasers shall be the higher of the following billing factors:

(1) The lower of:

(a) The Measured Demand, before adjustment for power factor, or

(b) The Computed Maximum Requirement, which is the larger of the Computed Peak Requirement or the Computed Average Energy Requirement, or

(2) The lower of:

(a) The Computed Peak Requirement, or

(b) Sixty percent of the highest Computed Peak Requirement during the previous 11 billing months (Ratchet Demand).

The billing demand for contracted computed requirements purchasers shall be the Contract Demand.

b. That portion of any Measured Demand, as adjusted for power factor, which exceeds the Computed Maximum Requirement during any billing month and which cannot be assigned:

(1) To a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(b) As unauthorized increase if no such exhibit exists.

2. *Billing Energy.* a. The billing energy for actual and planned computed requirements purchasers shall be the lesser of:

(1) The Computed Energy Maximum, or

(2) The sum of 50 percent of the Measured Energy and 50 percent of the Computed Energy Maximum.

The billing energy for contracted computed requirements purchasers shall be the Contract Demand multiplied by the number of hours in the billing month.

b. The amount of Measured Energy during a billing month which exceeds the Computed Energy Maximum for that month and which cannot be assigned:

(1) To a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(b) As unauthorized increase if no such exhibit exists.

B. Purchasers of Residential Exchange Power

Purchasers buying Priority Firm Power under the terms of a Residential Purchase and Sale Agreement shall be billed as follows:

1. *Billing Demand.* The billing demand shall be the demand calculated by applying the load factor, determined as specified in the Residential Purchase and Sale Agreement, to the billing energy for each billing period.

2. *Billing Energy.* The billing energy shall be 80 percent of the energy associated with the utility's residential load for each billing period through June 30, 1984. The percentage shall be increased to 90 percent on July 1, 1984, and to 100 percent on July 1, 1985.

C. Metered Requirements Purchasers and Other Purchasers not Covered by Sections III.A and III.B, Above

Purchasers designated as metered requirements customers and purchasers taking power under this rate schedule who are not otherwise covered by sections III.A and III.B shall be billed as follows:

1. *Billing Demand.* a. For metered requirements purchasers the billing demand shall be the Measured Demand as adjusted for power factor.

Other purchasers shall be billed on the Contract Demand, if specified in the power sales contract. Otherwise the billing demand for such purchasers shall be the Measured Demand as adjusted for power factor.

b. That portion of any Measured Demand, before adjustment for power factor, which exceeds the amount of firm power the purchaser is entitled to take pursuant to the power sales contract and which cannot be assigned:

(1) To a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, shall be billed as unauthorized increase.

2. *Billing Energy.* a. For metered requirements purchasers the billing energy shall be the Measured Energy.

Other purchasers shall be billed on the Contract Demand multiplied by the number of hours in the billing month, provided a Contract Demand is specified in the power sales contract.

Otherwise the billing energy for such purchasers shall be the Measured Energy.

b. The amount of Measured Energy during a billing month which exceeds the amount which the purchaser is entitled to take pursuant to the power sales contract during that month and which cannot be assigned:

(1) To a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, shall be billed as unauthorized increase.

D. Purchasers of Priority Firm Power During a Period of Insufficiency

In the event of an insufficiency of electric power, all purchasers of priority firm power who are contractually limited to an allocation of capacity and/or energy, as determined by BPA pursuant to the terms of the purchaser's power sales contract, shall be billed as follows:

1. *Billing Demand, Given an Allocation of Firm Capacity.* a. If there has been an allocation of Firm Capacity, the billing demand shall be the lower of:

(1) The Measured Demand, adjusted for power factor, or

(2) The allocation of Firm Capacity, determined pursuant to the purchaser's power sales contract.

b. That portion of any Measured Demand, before adjustment for power factor, which exceeds the allocation of Firm Capacity and which cannot be assigned:

(1) To a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(b) As unauthorized increase if no such exhibit exists.

2. *Billing Energy, Given an Allocation of Firm Energy.* a. If there has been an allocation of Firm Energy, the billing energy shall be the lower of:

(1) The Measured Energy, or

(2) The allocation of Firm Energy, determined pursuant to the purchasers's power sales contract.

b. The amount of Measured Energy during a billing month which exceeds the allocation of Firm Energy for that month and which cannot be assigned:

(1) To a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser, or

2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, shall be billed:

(1) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(2) As unauthorized increase if no such exhibit exists.

3. *Billing Factors, Given No Allocation of Firm Capacity and/or No Allocation of Firm Energy.* The billing demand or billing energy, if not specifically limited to an allocation pursuant to the purchaser's power sales contract, shall be determined according to the appropriate section, III.A, III.B, or III.C, above.

Section IV. Adjustments

A. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the General Rate Schedule Provisions. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent. To make the power factor adjustment, BPA shall increase the billing demand by one percentage point for each percentage point or major fraction thereof (.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

B. Low Density Discount (LDD)

1. A predetermined discount will be applied each month of a calendar year to the charges for power purchased under this rate schedule. The discount will be based on the following ratios:

a. The purchaser's total electric energy requirements during the previous calendar year (including the purchaser's nonfirm sales and sales for resale) divided by the purchaser's depreciated electric plant (excluding generation plant) at the end of such year, and

b. The average number of residential consumers during the previous calendar year divided by the number of pole miles of distribution line at the end of such year.

In calculating these ratios BPA shall use data pertaining to the purchaser's entire electric utility system within the region. Results of the calculations shall not be rounded.

2. Any purchaser meeting all five of the eligibility criteria listed below shall receive the greatest discount for which that purchaser qualifies.

a. *Eligibility Criteria.* (1) The purchaser must be an electric utility offering power for resale:

(2) The purchaser must agree to pass the benefits of the discount through to the purchaser's consumers within the BPA region;

(3) The purchaser's kilowatthour to investment ratio (Ratio IV.B.1.a) must be less than 60;

(4) The purchaser's consumers per mile ratio (Ratio IV.B.1.b) must be less than 10; and

(5) The purchaser must qualify for a discount based on the criteria in section IV.B.2.b, below.

b. *Discounts.* (1) 3% for any purchaser for whom:

(a) The kilowatthour to investment ratio is equal to or greater than 25 but less than 35, or

(b) The consumers per mile ratio is equal to or greater than 4 but less than 6.

(2) 5% for any purchaser for whom:

(a) The kilowatthour to investment ratio is equal to or greater than 15 but less than 25, or

(b) The consumers per mile ratio is equal to or greater than 2 but less than 4.

(3) 7% for any purchaser for whom:

(a) The kilowatthour to investment ratio is less than 15, or

(b) The consumers per mile ratio is less than 2.

C. Exchange Adjustment

The Exchange Adjustment shall be calculated pursuant to section III.C.2 of the General Rate Schedule Provisions and shall be applied to all power purchases under this rate schedule from November 1, 1983, through June 30, 1985.

For this rate schedule, the variable EC in the Exchange Adjustment calculation shall have a value of 0.213.

D. Supply System Adjustment

The Supply System Adjustment shall be calculated pursuant to section III.C.3 of the General Rate Schedule Provisions and shall be applied to energy purchases made under this rate schedule from July 1, 1984, through June 30, 1985.

For this rate schedule, the variables SS and BD in the Supply System calculation shall have the following values:

1. SS=0.968;
2. BD=75,919.

Section V. Resource Cost Contribution

The approximate cost contribution of different resource categories to the PF-

83B rate is 78 percent FBS and 22 percent Exchange.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section VI. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule IP-83—Industrial Power Rate

Section I. Availability

This schedule is available to existing direct-service industrial customers for the contract purchase of industrial firm power on an Operating Demand basis and for auxiliary power requested by the purchaser and made available as an Auxiliary Demand by BPA on an intermittent basis. This rate schedule supersedes Schedule IP-2 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods. Within each rate period there are two sets of charges: one for purchasers during periods when they have *not* requested service to the top quartile with surplus firm energy load carrying capability (FELCC) and another for purchasers during periods when they *have* requested such service.

A. When the purchaser has *not* requested service to the first quartile with surplus FELCC the following rate shall apply:

1. *Customer Charge.* a. For all billing months: $5.72 ($5.93) per kilowatt of operating demand.

2. *Demand Charge.* a. For the billing months December through April, Monday through Saturday, 7 a.m. through 10 p.m.: $4.68 ($4.85) per kilowatt of billing demand,

b. For the billing months May through November, Monday through Saturday, 7 a.m. through 10 p.m.: $2.20 ($2.28) per kilowatt of billing demand,

c. All other hours: No demand charge.

3. *Energy Charge.* a. For the billing months September through March: 15.0 (15.6) mills per kilowatthour of billing energy,

b. For the billing months April through August: 12.3 (12.8) mills per kilowatthour of billing energy.

4. *Unauthorized Increase Charge.* a. 83.0 mills per kilowatthour.

B. When the purchaser *has* requested service to the first quartile with surplus FELCC the following rate shall apply:

1. *Customer Charge.* a. For all billing months: $7.21 ($7.48) per kilowatt of operating demand.

2. *Demand Charge.* a. For the billing months December through April, Monday through Saturday, 7 a.m. through 10 p.m.: $5.50 ($5.70) per kilowatt of billing demand,

b. For the billing months May through November, Monday through Saturday, 7 a.m. through 10 p.m.: $2.39 ($2.48) per kilowatt of billing demand,

c. All other hours: No demand charge.

3. *Eneregy Charge.* a. For the billing months September through March: 16.1 (16.7) mills per kilowatthour of billing energy,

b. For the billing months April through August: 12.9 (13.4) mills per kilowatthour of billing energy.

4. *Unauthorized Increase Charge.* a. 83.0 mills per kilowatthour.

Section III. Billing Factors

A. Billing Demand

1. In computing the billing demand for industrial firm power, BPA shall use the lowest of the following billing factors:

a. Operating Demand,

b. Curtailed Demand, or

c. Restricted Demand.

In the computation of the power bill, each of the billing factors for demand shall be adjusted for power factor. Only that portion of the demand which is purchased from BPA shall be considered the billing demand.

Any purchaser which has not complied with the provisions of the power sales contract in providing notice to BPA regarding requested changes in Operating Demand or Curtailed Demand shall be billed as if no notice has been provided, unless BPA agrees to waive the notice requirement.

During any billing month in which there is more than one type of demand for industrial firm power, the billing demand shall be the weighted average of the billing demands for such month.

If the purchaser requests billing on a Measured Demand basis pursuant to section 4 of the power sales contract and if BPA agrees to such billing, the billing demand for the billing month shall be the weighted average of the daily Measured Demands, as adjusted for power factor. However, at no time during the period of restoration, as defined in section 4(e) of the power sales contract, shall the daily billing demand be lower than any previous such demand during such period. Should the Measured Demand for any day during such period be lower than the billing demand for the previous day, the previous day's billing demand shall be used as the biling demand for such day.

2. *Auxiliary Power.* For auxiliary power requested by the purchaser and made available by BPA, the billing demand shall be the Auxiliary Demand, as adjusted for power factor.

If the purchaser requests auxiliary power during the billing month, the billing demand for auxiliary power shall be the weighted average of the billing demands for auxiliary power for the number of days during the billing month in which the purchaser received auxiliary power. However, should the Measured Demand for any day during which BPA supplies Auxiliary Power be lower than the billing demand for the previous day the previous day's billing demand shall be used as the billing demand for such day.

3. *Curtailments.* BPA shall charge the purchaser for curtailments in accordance with the provisions of section 9(c) of the power sales contract.

4. *Unauthorized Increase.* If the Measured Demand during the hours 7 a.m.-10 p.m. on any day Monday through Saturday exceeds the sum of:

a. The billing demand (as specified in section III.A.1) during that hour before adjustment for power factor,

b. The auxiliary demand during that hour before adjustment for power factor, and

c. Any applicable demands which the purchaser acquires through other contracts for such hour, the difference may be billed:

a. As unauthorized increase, or

b. As additional billing demand under this rate schedule.

BPA shall make the determination as to how the unauthorized increase shall be billed.

B. Billing Energy

The billing energy shall be that portion of the Measured Energy purchased from BPA during the billing month.

The power bill shall reflect the distribution of the kilowatthours of billing energy among the respective billing demands for the month.

Section IV. Adjustments

A. Value of Reserves

A monthly billing credit for the value of the reserves provided by purchasers of Industrial Firm Power shall be:

1. $0.25 ($0.26) per kilowatt of billing demand.

2. 1.7 (1.8) mills per kilowatthour of billing energy.

The adjustment shall be applied to the same billing factors which are used to determine the billing for power purchased under sections III.A.1 and III.A.2 of this rate schedule. However, no value of reserves credit shall be applied to that portion of the purchaser's demand subject to curtailment charges under section III.A.3 of this rate schedule. In addition, no value of reserves credit shall be applied to those purchases subject to unauthorized increase charges under section III.A.4, above.

B. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the General Rate Schedule Provisions. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is suppled during the billing month is less than 95 percent. To make the power factor adjustment, BPA shall increase the billing demand by one percentage point for each percentage point or major fraction thereof (.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

C. Exchange Adjustment

The Exchange Adjustment shall be calculated pursuant to section III.C.2 of the General Rate Scheule Provisions and shall be applied to all power purchases under this rate schedule from November 1, 1983, through June 30, 1985.

For this rate schedule, the variable EC in the Exchange Adjustment calculation shall have a value of 0.822.

Section V. Resource Cost Contribution

The approximate cost contribution of different resource categories to the IP-83B rate is 100 percent Exchange.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section VI. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule IH-83—Special Industrial Rate

Section I. Availability

This schedule is available for the Hanna Nickel Smelting Company's contract purchase of a special class of industrial power on an Operating Demand basis and for auxiliary power requested by the purchaser and made available as an Auxiliary Demand by BPA on an intermittent basis. This rate schedule is made available pursuant to section 7(d)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). This schedule supersedes Schedule SI-2 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods.

A. Demand Charge

1. For the billing months December through April, Monday through Saturday, 7 a.m. through 10 p.m.: $5.50 ($5.70) per kilowatt of billing demand.

2. For the billing months May through November, Monday through Saturday, 7 a.m. through 10 p.m.: $2.39 ($2.48) per kilowatt of billing demand.

3. All other hours: No demand charge.

B. Energy Charge

1. For the billing months September through March: 16.1 (16.7) mills per kilowatthour of billing energy.

2. For the billing months April through August: 12.9 (13.4) mills per kilowatthour of billing energy.

C. Unauthorized Increase Charge

1. 83.0 mills per kilowatthour.

Section III. Billing Factors.

A. Billing Demand

1. In computing the billing demand for this special class of industrial power, BPA shall use the lowest of the following billing factors:

a. Operating Demand,

b. Curtailed Demand, or

c. Restricted Demand.

In the computation of the power bill, each of the billing factors for demand shall be adjusted for power factor. Only that portion of the demand which is purchased from BPA shall be considered the billing demand.

Any purchaser which has not complied with the provisions of the power sales contract in providing notice to BPA regarding changes in requested Operating Demand or curtailed Demand shall be billed as if no notice has been provided, unless BPA agrees to waive the notice requirement.

During any billing month in which there is more than one type of demand for industrial firm power, the billing demand shall be the weighted average of the billing demands for such month.

If the purchaser requests billing on a Measured Demand basis pursuant to section 4 of the power sales contract and if BPA agrees to such billing, the billing demand for the billing month shall be the weighted average of the daily Measured Demands, as adjusted for power factor. However, at no time during the period of restoration, as defined in section 4(e) of the power sales contract, shall the daily billing demand be lower than any previous such demand during such period. Should the Measured Demand for any day during such period be lower than the billing demand for the previous day, the previous day's billing demand shall be used as the billing demand for such day.

2. *Auxiliary Power.* For auxiliary power requested by the purchaser and made available by BPA, the billing demand shall be the Auxiliary Demand as adjusted for power factor.

If the purchaser requests auxiliary power during the billing month, the billing demand for auxiliary power shall be the weighted average of the billing demands for auxiliary power for the number of days during the billing month in which the purchaser received auxiliary power. Should the Measured Demand on any day during which BPA supplies Auxiliary Power be lower than the billing demand for the previous day, the previous day's billing demand shall be used as the billing demand for such day.

3. *Curtailments.* BPA shall charge the purchaser for curtailments in accordance with the provisions of section 9(c) of the power sales contract.

4. *Unauthorized Increase.* If the Measured Demand during the hours 7

a.m.—10 p.m. on any day Monday through Saturday exceeds the sum of:

a. The billing demand (as specified in section III.A.1) during that hour before adjustment for power factor,

b. The auxiliary demand during that hour before adjustment for power factor, and

c. Any applicable scheduled demands which the purchaser acquires through other contracts for such hour, the difference may be billed:

a. As unauthorized increase, or

b. As additional billing demand under this rate schedule.

BPA shall make the determination as to how the unauthorized increase shall be billed.

B. Billing Energy

The billing energy shall be the Measured Energy during the billing month.

The power bill shall reflect the distribution of the kilowatthours of billing energy among the respective billing demands for the month.

Section IV. Adjustments

A. Value of Reserves

An adjustment for the value of the reserves provided by purchasers of this special class of industrial power shall be:

1. $0.25 ($0.26) per kilowatt of billing demand and

2. 1.7 (1.8) mills per kilowatthour of billing energy.

The adjustment shall be applied to the same billing factors which are used to determine the billing for power purchased under sections III.A.1 and III.A.2 of this rate schedule. However, no value of reserves credit shall be applied to that portion of the purchaser's demand subject to curtailment charges under section III.A.3 of this rate schedule. In addition, no value of reserves credit shall be applied to those purchases subject to unauthorized increase charges under section III.A.4, above.

B. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the General Rate Schedule Provisions. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent. To make the power factor adjustment, BPA shall increase the billing demand by one percentage point for each percentage point or major fraction thereof (.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

Section V. Resource Cost Contribution

The IH-83B rate is not based on the cost of resources.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load groath is 29.3 mills per kilowatthour.

Section VI. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmisstion System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule CF-83—Firm Capacity Rate

Section I. Availability

This schedule is available for the contract purchase of firm capacity without energy on a contract demand basis for supply during a contract year of 12 months or during a contract season of 5 months, June 1 through October 31. This schedule supersedes Schedule CF-2 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods.

A. Contract Year Service

$44.16 ($45.84) per kilowatt per year of Contract Demand, billed monthly at the rate of $3.68 ($3.82) per kilowatt of Contract Demand.

B. Contract Season Service

$11.95 ($12.40) per kilowatt per season of Contract Demand, billed monthly during the contract season at the rate of $2.39 ($2.48) per kilowatt of Contract Demand.

C. Intertie Service

The monthly capacity rate specified in subsections A.1 and A.2, above, shall be increased by $0.51 ($0.53) per kilowatt for capacity made available at the Oregon-California or the Oregon-Nevada border for delivery over the Pacific Northwest-Pacific Southwest (Southern) Intertie.

D. Extended Peaking Surcharge

The monthly capacity rate specified in subsections A, B, and, if applicable, C, above, shall be increased by 0.043 per kilowatt of billing demand for each hour that the purchaser's monthly demand duration exceeds nine (9) hours. The charge shall be prorated for each portion of an hour of extended peaking supplied to the purchaser. The purchaser's demand duration for the month shall be determined by dividing:

1. The kilowatthours supplied under this rate schedule to the purchaser on the day of the purchaser's maximum kilowatthour use between the hours of 7 a.m. and 10 p.m., excluding Sundays, by

2. The purchaser's Contract Demand for such month.

During periods when BPA does not require the purchaser to replace the energy associated with the firm capacity sale, the additional charge described above shall not be applied.

E. Other Charges

During periods when BPA does not require the purchaser to replace the energy associated with the firm capacity sale, BPA shall charge the purchaser in accordance with the provisions of the power sales contract for the peaking replacement energy which otherwise would have been returned pursuant to the power sales contract.

Section III. Billing Factors

The billing demand shall be the Contract Demand.

Section IV. Special Provision

Contracts for the purchase of firm capacity under this schedule shall include provisions for the purchaser to replace the energy accompanying the delivery of such capacity.

Section V. Adjustments

A. Exchange Adjustment

The Exchange Adjustment shall be calculated pursuant to section III.C.2 of the General Rate Schedule Provisions and shall be applied to all power purchases under this rate schedule from November 1, 1983, through June 30, 1985.

For Contract Year Service, the variable EC in the Exchange Adjustment calculation shall have a value of 0.338. For Contract Season Service, the variable EC in the Exchange Adjustment calculation shall have a value of 0.240.

B. Supply System Adjustment

The Supply System Adjustment shall be calculated pursuant to section III.C.3 of the General Rate Schedule Provisions and shall be applied to energy purchases made under this rate schedule from July 1, 1984, through June 30, 1985.

For Contract Year Service, the variables SS and BD in the Supply System calculation shall have the following values:

1. SS=0.011;
2. BD=14,124.

For Contract Season Service, the variables SS and BD in the Supply System calculation shall have the following values:

1. SS=0.001;
2. BD=3,000.

Section VI. Resource Cost Contribution

The approximate cost contribution of different resource categories to the CF-83B rate is 70 percent FBS and 30 percent Exchange for annual service, and 75 percent FBS and 25 percent Exchange for seasonal service.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section VII. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule CE-83—Emergency Capacity Rate

Section I. Availability

This schedule is available for the purchase of capacity:

A. When an emergency exists on the purchaser's system, or

B. When the purchaser wishes to displace higher cost firm capacity resources which are otherwise available to meet the purchaser's load, provided the purchaser requests such capacity and BPA has capacity available for such purpose.

This schedule supersedes Schedule CE-2 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods.

A. Demand Charge

$1.11 ($1.15) per kilowatt of demand per calendar week or portion thereof.

B. Intertie Charge

The charge shall be increased by $0.13 per kilowatt per week for capacity made available at the Oregon-California or Oregon-Nevada border for delivery over the Pacific Northwest-Pacific Southwest Intertie.

Section III. Billing Factors

The billing demand shall be the maximum amount requested by the purchaser and made available by BPA during a calendar week. If BPA is unable to meet subsequent requests by a purchaser for delivery at the demand previously established during such week, the billing demand for that week shall be the lower demand which BPA is able to supply.

Section IV. Billing Period

Bills shall be rendered monthly.

Section V. Special Provision

Energy delivered with such capacity shall be returned to BPA within 7 days of the date of delivery and shall be returned at times and rates of delivery agreed to by both the purchaser and BPA prior to delivery. BPA may agree to accept the return energy after the normal 7-day return period provided that such delay is to BPA's benefit and has been mutually agreed upon prior to delivery.

Section VI. Resource Cost Contribution

The approximate cost contribution of different resource categories to the CE-83 rate is 70 percent FBS and 30 percent Exchange.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section VII. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule NR-83—New Resource Firm Power Rate

Section I. Availability

This schedule is available for the contract purchase of firm power to be used within the Pacific Northwest.

New Resource Firm Power is available to those investor-owned utilities under net requirement contracts purchasing firm power for resale, direct consumption, or use in construction, test and start up, and station service.

New Resource Firm Power is also available to any public body, cooperative, or Federal agency to the extent such power is needed to serve any increase in energy consumption of a load as defined in section 3(13) of the Pacific Northwest Electric Power Planning and Conservation Act as interpreted in Notice of Final Action (46 FR 44353) (September 3, 1981).

This schedule supersedes Schedule NR-2 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods.

A. Demand Charge

1. For the billing months December through April, Monday through Saturday, 7 a.m. through 10 p.m.: $5.50 ($5.70) per kilowatt of billing demand.

2. For the billing months May through November, Monday through Saturday, 7 a.m. through 10 p.m.: $2.39 ($2.48) per kilowatt of billing demand.

3. All other hours: No demand charge.

B. Energy Charge

1. For the billing months September through March: 25.5 (26.4) mills per kilowatthour of billing energy.

2. For the billing months April through August: 21.5 (22.3) mills per kilowatthour of billing energy.

C. Unauthorized Increase Charge

1. 83.0 mills per kilowatthour.

2. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an

unauthorized increase pursuant to the Billing Demand subsections of section III of this rate schedule. That amount which BPA actually treats as unauthorized increase pursuant to the Billing Demand subsections of section III shall be excluded from the total of the integrated or scheduled demands used to determine the amount which may be considered an unauthorized increase under the Billing Energy subsections of section III.

Section III. Billing Factors

In this section billing factors are listed for each of the following types of purchasers: computed requirements purchasers (section III.A), metered requirements purchasers and those New Resource Firm Power purchasers not covered by section III.A (section III.B), and purchasers of New Resource Firm Power during a period of insufficiency (section III.C). If BPA has provided the purchaser with notice of insufficiency, the billing provisions of section III.C shall take precedence over the billing provisions of sections III.A and III.B.

A. Computed Requirements Purchasers

Purchasers designated by the Bonneville Power Administration (BPA) as computed requirements purchasers pursuant to power sales contracts executed after December 5, 1980, shall be billed in accordance with the provisions of this section.

1. *Billing Demand.* a. The billing demand shall be the higher of the following billing factors:

(1) The lower of:

(a) The Measured Demand, before adjustment for power factor,

(b) The Computed Maximum Requirement, which is the larger of the Computed Peak Requirement or the Computed Average Energy Requirement, or

(2) The lower of:

(a) The Computed Peak Requirement, or

(b) Sixty percent of the highest Computed Peak Requirement during the previous 11 billing months (Ratchet Demand).

b. That portion of any Measured Demand, as adjusted for power factor, which exceeds the Computed Maximum Requirement during any billing month and which cannot be assigned:

(1) To a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, shall be billed:

(1) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(2) As unauthorized increase if no such exhibit exists.

2. Billing Energy. a. The billing energy for actual and planned computed requirements purchasers shall be the lesser of:

(1) The Computed Energy Maximum, or

(2) The sum of 50 percent of the Measured Energy and 50 percent of the Computed Energy Maximum.

b. The amount of Measured Energy during a billing month which exceeds the Computed Energy Maximum for that month and which cannot be assigned:

(1) To a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, shall be billed:

(1) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(2) As unauthorized increase if no such exhibit exists.

B. Metered Requirements Purchasers and Other Purchasers Not Covered by Section III.A, Above

Purchasers designated as metered requirements customers and purchasers taking power under this rate schedule who are not otherwise normally covered by section III.A shall be billed as follows:

1. *Billing Demand.* a. For metered requirements purchasers the billing demand shall be the Measured Demand as adusted for power factor.

Other purchasers shall be billed on the Contract Demand, if specified in the power sales contract. Otherwise the billing demand for such purchasers shall be the Measured Demand as adjusted for power factor.

b. That portion of any Measured Demand, before adjustment for power factor, which exceeds the amount of firm power the purchaser is entitled to take pursuant to the power sales contract and which cannot be assigned:

(1) To a class of power which PBA delivers on such hour pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, shall be billed as unauthorized increase.

2. *Billing Energy.* a. For metered requirements purchasers the billing energy shall be the Measured Energy.

Other purchasers shall be billed on the Contract Demand multiplied by the number of hours in the billing month, provided a Contract Demand is specified in the power sales contract. Otherwise the billing energy for such purchasers shall be the Measured Energy.

b. The amount of Measured Energy during a billing month which exceeds the amount which the purchaser is entitled to take pursuant to the power sales contract during that month and which cannot be assigned:

(1) To a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, shall be billed as unauthorized increase.

C. Purchasers of New Resource Firm Power During a Period of Insufficiency

In the event of an insufficiency of electric power, all purchasers of New Resource Firm Power who are contractually limited to an allocation of capacity and/or energy, as determined by BPA pursuant to the terms of the purchaser's power sales contract, shall be billed as follows:

1. *Billing Demand, Given an Allocation of Firm Capacity.* a. If there has been an allocation of firm capacity, the billing demand shall be the lower of:

(1) The Measured Demand, adjusted for power factor, or

(2) The allocation of firm capacity, determined pursuant to the purchaser's power sales contract.

b. That portion of any Measured Demand, before adjustment for power factor, which exceeds the allocation of firm capacity and which cannot be assigned:

(1) To a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(b) As unauthorized increase if no such exhibit exists.

2. *Billing Energy, Given an Allocation of Firm Energy.* a. If there has been an allocation of firm energy, the billing energy shall be the lower of:

(1) The Measured Energy, or

(2) The allocation of firm energy, determined pursuant to the purchasers' power sales contract.

b. The amount of Measured Energy during a billing month which exceeds the allocation of firm energy for that month and which cannot be assigned:

(1) To a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser, or

(2) To a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(b) As unauthorized increase if no such exhibit exists.

3. *Billing Factors, Given No Allocation of Firm Capacity and/or No Allocation of Firm Energy.* The billing demand or billing energy, if not specifically limited to an allocation pursuant to the purchaser's power sales contract, shall be determined according to the appropriate section, III.A or III.B, above.

Section V. Adjustments

A. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the General Rate Schedule Provisions. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent. To make the power factor adjustment, BPA shall increase the billing demand by one percentage point for each percentage point or major fraction thereof (.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

B. Exchange Adjustment

The Exchange Adjustment shall be calculated pursuant to section III.C.2 of the General Rate Schedule Provisions and shall be applied to all power purchases under this rate schedule from November 1, 1983, through June 30, 1985.

For this rate schedule, the variable EC in the Exchange Adjustment calculation shall have a value of 0.898.

Section VII. Resource Cost Contribution

The approximate cost contribution of different resource categories to the NR-83B rate is 100 percent Exchange.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section VIII. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: The Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule SP-83—Surplus Firm Power Rate

Section I. Availability

This schedule is available for the contract purchase of surplus firm power to be used either for resale or direct consumption. Surplus firm power may be sold to entities inside and outside the Pacific Northwest as well as outside the United States. However, this rate schedule shall not apply to contracts for which rates have been negotiated pursuant to section 7(1) of the Regional Act. In addition, this schedule is not available to any direct-service industrial purchaser who buys power under rate schedule IP-3. This rate schedule supersedes Schedule SP-1 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

The rate for Surplus Firm Power shall be mutually agreed upon and contractually specified by the parties prior to delivery of the power. A contract having an effective term of less than one year or terminating on or before June 30, 1985, may reference any of the four rates described below (Thermal Resource Rate, Exchange Resource Rate, Purchased Power Rate, or Contract Rate). A contract having an effective term of more than one year or terminating after June 30, 1985, shall reference the Contract Rate.

A. Thermal Resource Rate

A Surplus Power rate based on the cost of thermal resources shall be set at a level which will recover BPA's cost of generating and transmitting power from one or more Federal systems thermal resources to the contractually specified point of delivery. A thermal resource rate shall include all the variable costs and up to 100 percent of the fixed costs associated with generating and transmitting such thermal power.

The following variable costs, if applicable, shall be included in the determination of a thermal resource rate: (a) Total fuel costs, (b) incremental costs of labor and supplies required for operation and maintenance of the thermal plant(s) providing such power, (c) incremental administrative and general expenses, (d) taxes, (e) transmission network losses (to be priced at the incremental cost of the fuel required to generate the lost power), and (f) any other related costs associated with production and transmission of such thermal power.

The fixed costs associated with the generation and transmission of such thermal power shall include, if applicable: (a) Debt service, (b) capital additions, (c) taxes, (d) fixed administrative and general expenses, (e) fixed operation and maintenance expenses, (f) insurance for the facilities used in the production and transmission of this thermal power, and (g) any other fixed cost associated with the generation and transmission of such thermal power.

Prior to delivery of this thermal power, BPA shall determine what portion of the fixed costs listed above shall be included in the rate.

B. Exchange Resource Rate

A Surplus Power rate based on the cost of exchange resources shall contractually specify use of one of the following costs as the basis of the charge:

1. The average cost of exchange resources of a particular utility participating in the residential exchange, or

2. The average cost of all exchange resources.

The forecast exchange resource cost included in the determination of the 1983 Wholesale Power Rates shall be used in the calculation of this rate.

The rate shall also include identifiable delivery costs (such as losses and transmission):

C. Purchased Power Rate

A Surplus Power rate based on the cost of purchased power shall be the sum of:

1. The total costs to BPA of the specified purchase, and

2. Any identifiable costs (such as losses and transmission costs) directly associated with such energy purchase and redelivery.

D. Contract Rate

The Contract Rate include charges for two rate periods. Period A begins November 1, 1983, and continues

through June 30, 1984. Period B begin July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods.

For contracts which refer to the Contract Rate in this rate schedule in determining the rate for surplus firm power or surplus firm energy, the following rate shall apply:

1. *Demand Charge.* a. For the billing months December through April, Monday through Saturday, 7 a.m. through 10 p.m.: $5.50 ($5.70) per kilowatt of billing demand, b. For the billing months May through November, 7 a.m. through 10 p.m.: $2.39 ($2.48) per kilowatt of billing demand, c. All other hours: No demand charge.

2. *Energy Charge.* a. For the billing months September through March: 25.2 (26.1) mills per kilowatthour of billing energy, b. For the billing months April through August: 21.1 (21.9) mills per killowatthour of billing energy.

3. *Escalation Factor.* The SP-83 Contract Rate shall be subject to change each July 1, beginning July 1, 1985. The change in the SP-2 Contract Rate shall be determined in the manner described below for all contracts which extend beyond June 30, 1985. The effective rate for each rate component of the Contract Rate shall be equal to:

$$\text{Rate}_n = \text{Rate}_{n-1} * (1 + \text{ARG}_{n-1})$$

where:

$_n$ = the operating year (July 1–June 30) for which the SP-2 Contract Rate is being calculated;

Rate-1 = each component (winter demand, summer demand, winter energy, summer energy) of the SP-83 Contract Rate in the previous year (year $_n$-1);

ARG = the weighted average annual rate of growth in the average cost of exchange resources in year n-1 as calculated on July 1 in year n. The average cost of exchange resources shall be based on the average system costs of C.P. National, Portland General Electric, Pacific Power and Light, Utah Power and Light, and Idaho Power Company. If any of the four utilities elect to equalize rates in year n-1 pursuant to section 10 of the Residential Purchase and Sale Agreement, the calculation of ARG shall not reflect the average system cost of such electing utility.

The billing demand and billing energy shall be determined as specified in the power sales contract.

Section III. Exchange Adjustment

The Exchange Adjustment shall be calculated pursuant to section III.C.2 of the General Rate Schedule Provisions and shall be applied to all power purchases under this rate schedule from November 1, 1983, through June 30, 1985.

For this rate schedule, the variable EC in the Exchange Adjustment calculation shall have a value of 0.855.

Section IV. Resource Cost Contribution

The approximate cost contribution of different resource categories to the SP-83 rate is 97 percent Exchange and 3 percent New Resources.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section V. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule SE-83—Surplus Firm Energy Rate

Section I. Availability

This schedule is available for the contract purchase of surplus firm energy to be used either for resale or direct consumption. Surplus firm energy may be sold to entities inside and outside the Pacific Northwest as well as outside the United States. However, this rate schedule shall not apply to contracts for which rates have been negotiated pursuant to section 7(1) of the Regional Act. In addition, this schedule is not available to any direct-service industrial purchaser who buys power under rate schedule IP-3. This rate schedule supersedes Schedule SE-1 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A.

28.5 (29.6) mills per kilowatthour of billing energy.

Section III. Billing Factors

The factors to be used in determining the billing for power purchased under this rate are as follows:

A. The contract amount of energy for the month;

B. The Measured Energy for the month.

Section IV. Determination of Billing Energy

The billing energy shall be determined as provided in the purchaser's power sales contract. If BPA does not have a power sales contract in force with a purchaser, the billing energy shall be the Measured Energy.

Section V. Delivery

Delivery of energy under this rate schedule is assured during the contract period. However, BPA may interrupt the delivery of firm energy hereunder, in whole or in part, at any time that BPA determines that BPA is unable to effect such delivery because of system operating conditions, including lack of generation or transmission capacity.

Section VI. Adjustments

A. Power Factor

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the General Rate Schedule Provisions. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent. To make the power factor adjustment, BPA shall increase the billing demand by one percentage point for each percentage point or major fraction thereof (.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

B. Exchange Adjustment

The Exchange Adjustment shall be calculated pursuant to section III.C.2 of the General Rate Schedule Provisions and shall be applied to all power purchases under this rate schedule from November 1, 1983, through June 30, 1985.

For this rate schedule, the variable EC in the Exchange Adjustment calculation shall have a value of 0.885.

Section VII. Resource Cost Contribution

The approximate cost contribution of different resource categories to the SE-83B rate is 97 percent Exchange and 3 percent New Resources.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section VIII. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule NF-83—Nonfirm Energy Rate

Section I. Availability

This schedule is available for the contract purchase of nonfirm energy to be used both inside and outside the Pacific Northwest as well as outside the United States. This schedule also applies to energy delivered for emergency use under the conditions set forth in Section V.B of the General Rate Schedule Provisions. This rate schedule is not available for the purchase of energy which BPA has a firm obligation to supply, nor is this schedule applicable to contracts for which rates have been negotiated pursuant to section 7(1) of the Regional Act. This schedule supersedes Schedule NF-2 which went into effect on an interim basis on October 1, 1982.

Section II. Rate

This rate schedule includes charges for two rate periods. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues until this rate schedule is superseded. The charge for Period B is shown in parentheses immediately following the charge for Period A. If only one rate appears, the given rate is effective for both rate periods.

A. Market Rates

The price per kilowatthour of billing energy shall be set according to the following four conditions. More than one condition may apply at any given time.

1. *Standard Rate.* The rate shall be 20.1 (20.8) mills per kilowatthour.

This rate shall apply when the Federal Columbia River Power System (FCRPS) hydroelectric plants are not spilling or are not forecast to spill due to more energy being available for sale than can be sold at the Standard Rate due to market conditions.

At the time that BPA offers Nonfirm Energy under this rate, BPA shall indicate the maximum amount of energy available for the next day or days over which nonfirm is normally prescheduled in the Pacific Northwest, and the maximum hourly available amounts of such energy.

BPA shall offer 50 percent of the maximum daily amount of energy and 50 percent of each maximum hourly amount of energy on a guaranteed delivery basis. At the time that the purchaser arranges schedules of such energy, it shall indicate the amount it wishes to schedule on a nonguaranteed delivery basis. The energy which BPA makes available for delivery on the same day that scheduling arrangements are made is not subject to the guaranteed delivery provision.

Scheduling of sales under the Standard Rate shall be consistent with the scheduling provisions of the purchaser's power sales agreement with BPA. Scheduled amounts of guaranteed Nonfirm Energy may not be changed except:

a. When BPA and the Purchaser mutually agree to increase or decrease the scheduled amounts, or

b. When BPA must reduce nonfirm energy deliveries in order to serve firm loads because of unexpected generation loss in the Pacific Northwest.

2. *Spill Rate.* This rate shall apply when one or more FCRPS hydroelectric plants are spilling or are forecast to spill due to more FCRPS energy being available than can be sold at the Standard Rate. The rate shall be 12.5 (13.0) mills per kilowatthour.

3. *Displacement Rate.* When more energy is available on the FCRPS than can be sold at the Spill Rate, additional energy may be made available under the Displacement Rate. For participants in the Western Systems Coordinating Council (WSCC) Energy Broker System, such sales shall be made through the WSCC Broker Identified Energy Agreement under the EB-83 Energy Broker Rate.

The rate shall be the Spill Rate whenever the Buy Price is greater than or equal to the Spill Rate plus 2.0 mills per kilowatthour.

$$\text{Otherwise the rate shall be} : \frac{\text{Buy Price} + \text{BPA Sell Price}}{2}$$

where:

a. The Buy Price is the estimated decremental expense per kilowatthour which would otherwise have been incurred by the purchaser in generating or acquiring power from alternative resources, and

b. The BPA Sell Price is the higher of:

(1) 1.0 mill per kilowatthour, or

(2) The estimated incremental or equivalent expense per kilowatthour which BPA will incur in supplying energy to the buyer during that hour. BPA shall make the determination as to which resources are available to supply power to the purchaser during that hour.

4. *Incremental Rate.* The Incremental Rate shall be applied to sales of power:

a. Which is produced or purchased concurrently with the nonfirm sale,

b. Which BPA may at its option not produce or purchase, and

c. Which has an Incremental Cost greater than 18.1 (18.8) mills per kilowatthour.

The rate shall be equal to the Incremental Cost of that power plus 2.0 mill per kilowatthour where Incremental Cost is defined as all identifiable costs (expressed in mills per kilowatthour) which BPA would not have incurred if it had chosen not to produce or purchase the power being sold under this rate.

B. Contract Rate

For contracts that refer to this schedule to determine the value of energy, the rate is 14.6 (15.1) mills per kilowatthour.

Section III. Delivery

BPA shall determine the availability of energy to be provided under this rate schedule and the associated rate of delivery.

Section IV. Resource Cost Contribution

The approximate cost contribution of different resource categories to the NF-83B Standard Rate is 99.6 percent FBS and 0.4 percent New Resources.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour.

Section V. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Schedule EB-83—Energy Broker Rate

Section I. Availability

This rate schedule may be applied to both sales and purchases of nonfirm power among those participants in the Western Systems Coordinating Council (WSCC) Energy Broker System between whom agreements for energy transmission have been transacted. This schedule supersedes Schedule EB-1, which went into effect on an interim basis on October 1, 1982.

Section II. Rate

When a transaction takes place on the Energy Broker System, the Buy Price and Sell Price, respectively, will be defined as follows:

A. The BPA Buy Price is the estimated decremental or equivalent expense per kilowatthour which would otherwise have been incurred by BPA in generating or purchasing power from alternative sources in lieu of broker energy scheduled for delivery to BPA during that hour.

B. The BPA Sell Price is the estimated incremental or equivalent expense per kilowatthour which would be incurred by BPA in supplying broker energy scheduled for delivery during such hour to the buyer from resources which are available to supply power during that hour as determined by BPA.

The forecasted average cost of resources available to the Administrator under average water conditions is 20.2 mills per kilowatthour.

The forecasted cost of resources to meet load growth is 29.3 mills per kilowatthour after displacement by BPA's available secondary energy.

Section VI. General Provisions

Sales of power under this schedule shall be subject to the General Rate Schedule Provisions and the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88-552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act.

Outline of General Rate Schedule Provisions

I. Adoption of Revised Rate Schedules
- A. Approval of Rates
- B. General Provisions
- C. Reorganization of the General Rate Schedule Provisions

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- A. Priority Firm Power
- B. New Resource Firm Power
- C. Industrial Firm Power
- D. Authorized Increase
- E. Firm Capacity
- F. Surplus Firm Power
- G. Surplus Firm Energy
- H. Nonfirm Energy
- I. Energy Broker Power
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III. Billing Factors and Billing Adjustments
- A. Billing Factors for Demand
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IV. Other Definitions
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  - 1. Designation as a Computed Requirements Purchaser
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    - a. General Principles
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V. Application of Rates Under Special Circumstances
- A. Temporary Curtailment of Contract Demand
- B. Energy Supplied for Emergency Use
- C. Application of Rates During Initial Operation Period
- D. Construction, Test and Start-up, and Station Service

VI. Billing Information
- A. Billing for Purchasers With More Than 1 Point of Delivery
- B. Determination of Estimated Billing Data
- C. Billing Month
- D. Payment of Bills

General Rate Schedule Provisions

Section I. Adoption of Revised Rate Schedules and General Rate Schedule Provisions

A. Approval of Rates

Schedules of rates and charges for electric power sold by BPA or modifications to those schedules shall become effective on an interim or final basis after confirmation and approval by the Federal Energy Regulatory Commission in accordance with procedures established by the Commission.

B. General Provisions

BPA's Wholesale Power Rate Schedules and associated General Rate Schedule Provisions which are effective November 1, 1983, supersede in their entirety BPA's Wholesale Power Rate Schedules and General Rate Schedule Provisions effective October 1, 1982. The revised schedules and provisions shall be applicable to every BPA contract, including contracts executed prior to and subsequent to enactment of the Pacific Northwest Electric Power Planning and Conservation Act.

C. Reorganization of the General Rate Schedule Provisions

All references to sections in those General Rate Schedule Provisions which were in effect prior to November 1, 1983, are deemed to refer to the section in these revised General Rate Schedule Provisions indicated in the listing which follows.

Section title	General rate schedule provisions	
	Old section No.	New section No.
Priority and New Resource Firm Power.	1.1	II.A.
(Now divided into two sections)	II.B	
Modified Firm Power	1.2	N/A.
Firm Capacity	1.3	II.E.
Industrial Firm Power	1.4	II.C.
Authorized Increase	1.5	II.D.
Firm Energy	1.6	N/A.

Section title	General rate schedule provisions	
	Old section No.	New
Section No.:		
Contract Demand	2.1	III.A.2.
Auxiliary Demand	2.2	III.A.3.
Measured Demand	2.3	III.A.1
Peak Computed Demand and Energy Computed Demand.	2.4	III.A.4.
(Now divided into 3 sections: Computed Peak.		III.A.5.
Requirement, Computed Average Energy Requirement, and Computed Maximum Requirement).		III.A.6.
Restricted Demand	2.5	III.A.9.
Curtailed Demand	2.6	III.A.8.

Section title	General rate schedule	
	Old section No.	New section No.
Temporary Curtailment of Contract Demand.	3.1	V.A.
Energy Supplies for Emergency Use.	4.1	V.B.
Application of Rates During Initial Operation Period.	5.1	V.C.
Billing	6.1	VI.A.
Determination of Estimated Billing Data.	6.2	VI.B.
Billing Month	7.1	VI.C.
Payment of Bills	8.1	VI.D.
Average Power Factor	9.1	III.C.1.
Approval of Rates	10.1	I.A.
General Provisions	11.1	I.B.

Section II. Types of BPA Service

A. Priority Firm Power

Priority Firm Power is electric power which BPA will make continuously available for resale, direct consumption, construction, test and start-up, and station service by public bodies, cooperatives, and Federal agencies.

Construction, test and start-up, and station service are defined in section V.D of these General Rate Schedule Provisions.

Utilities participating in the exchange under section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) may purchase Priority Firm Power pursuant to the Residential Purchase and Sale Agreements.

In addition, BPA may make Priority Firm Power available to those parties participating in exchange agreements specifying use of the Priority Firm rate for determining the amount of power to be exchanged.

Power purchased under the Priority Firm rate schedule is to be used to meet the purchaser's actual firm load within the Pacific Northwest. Such power may be restricted in accordance with the Restriction of Deliveries section of these General Rate Schedule Provisions (section IV.A). However, BPA shall not restrict Priority Firm Power until Industrial Firm Power has been restricted in accordance with section II.C of these Genreal Rate Schedule Provisions.

Any increase in energy consumption by a load as defined in:

1. Section 3.(13) of the Regional Act, or,

2. Section 8 of any BPA power sales contract executed after December 5, 1980, shall be served under the New Resource Firm Power rate.

B. New Resource Firm Power

New Resource Firm Power is electric power which BPA will make continuously available:

1. For any new large single load as defined in section 3.(13) of the Regional Act, and as described in section 8 of any BPA power sales contract executed after December 5, 1980,

2. For firm power purchased by investor-owned utilities pursuant to power sales contracts with BPA, and

3. For construction, test and start-up, and station service for facilities owned and/or operated by investor-owned utilities.

New Resource Firm Power is to be used to meet the purchaser's actual firm load within the Pacific Northwest. Such power may be restricted in accordance with the Restriction of Deliveries section of these General Rate Schedule Provisions (section IV.A). However, BPA shall not restrict New Resource Firm Power until Industrial Firm Power has been restricted in accordance with section II.C of these General Rate Schedule Provisions.

C. Industrial Firm Power

Industrial Firm Power is electric power which BPA will make continuously available to a direct-service industrial purchaser on a Contract Demand basis subject to:

1. The restriction applicable to deliveries of all firm power pursuant to the Uncontrollable Forces and Continuity of Service provisions of the General Contract Provisions of the contract, and

2. The restrictions given in the Restriction of Deliveries section of the contract.

When such a restriction is made necessary, BPA shall restrict such purchaser's Operating Demand for Industrial Firm Power to the extent necessary to prevent, if possible, and otherwise to minimize restriction of Priority Firm and New Resource Firm Power.

D. Authorized Increase

An Authorized Increase is an amount of electric power specified in the power sales contract in excess of the Operating Demand or Contract Demand for:

1. Priority Firm Power,

2. New Resource Firm Power,

3. Industrial Firm Power, or

4. Power that BPA may be able to make available to the purchaser upon its request.

The purchaser shall make the request for Authorized Increase in writing stating the amount of increase requested, the purpose for which it will be used, and the period for which it is needed. BPA will then determine:

1. Whether such increase can be made available, and

2. The period for which such increase, if available, can be provided.

Notwithstanding that determination, BPA shall retain the right to restrict the delivery of such increase if BPA determines at any subsequent time that such increase will no longer be available.

The purchaser may curtail an Authorized Increase, in whole or in part, at the end of any billing month within the period that BPA has agreed to make such increase available.

E. Firm Capacity

Firm Capacity means capacity which BPA assures a purchaser will be available in amounts and during the periods specified in the contract. The energy associated with this capacity must be returned to BPA. Firm Capacity may be restricted pursuant to the Restriction of Deliveries section of these General Rate Schedule Provisions (section IV.A).

F. Surplus Firm Power

Surplus Firm Energy is energy which BPA assures a purchaser will be available during the period or periods specified in the contract. Such power may be purchased for resale or for direct consumption by entities both inside and outside the United States. Surplus Firm Power may, however, be restricted pursuant to the Restriction of Deliveries section of these General Rate Schedule Provisions (section IV.A).

G. Surplus Firm Energy

Surplus Firm Power is power which BPA assures a purchaser will be available during the period or periods specified in the contract. Such energy may be purchased for resale or direct consumption by entities both inside and outside the United States. Surplus Firm Energy may, however, be restricted pursuant to the Restriction of Deliveries section of these General Rate Schedule Provisions (section IV.A).

H. Nonfirm Energy

Nonfirm Energy is energy which BPA makes available to a purchaser on the condition that such energy may be restricted by BPA at any time for any reason. Nonfirm Energy may not be used to serve any load which BPA has a firm obligation to supply.

I. Energy Broker Power

Energy Broker Power, as used in BPA's rate schedules, is nonfirm power that:

1. BPA purchases from the Western Systems Coordinating Council (WSCC) Energy Broker System under the Energy Broker Rate Schedule, or

2. BPA makes available to the WSCC for sale to WSCC participants. Power that BPA sells to WSCC participants is subject to the Restriction of Deliveries section of these General Rate Schedule Provisions (section IV.A).

J. Reserve Power

Reserve Power is firm power sold to a purchaser:

1. to meet the purchaser's unanticipated load growth,

2. to provide service when no other type of power is deemed applicable, or

3. to serve the purchaser's firm power loads in circumstances where BPA does not have a power sales contract in force.

Sales of Reserve Power are subject to the Restriction of Deliveries section of these General Rate Schedule Provisions (section IV.A).

Section III. Billing Factors and Billing Adjustments

A. Billing Factors for Demand

1. *Measured Demand.* The purchaser's Measured Demand will be determined according to this section unless the terms of a contract executed after December 5, 1980, provide otherwise. Except where deliveries are scheduled as hereinafter provided, the Measured Demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands at which electric energy is delivered to a purchaser at each point of delivery during each time period specified in the applicable rate schedule during any billing period. Such largest 60-minute integrated demand shall be determined from measurements made as specified in the contract or as determined in section III.A.8 herein. In determining the Measured Demand, BPA will exclude any abnormal 60-minute integrated demands due to or resulting from:

a. Emergencies or breakdowns on, or maintenance of, the Federal system facilities, and

b. Emergencies on the purchaser's facilities, provided that such facilities have been adequately maintained and prudently operated, as determined by BPA.

For those contracts to which BPA is a party and which provide for delivery of more than one class of electric power to the purchaser at any point of delivery, the portion of each 60-minute integrated demand assigned to any class of power shall be determined as specified in the contract. The portion of the total Measured Demand so assigned shall constitute the Measured Demand for each such class of power.

If the flow of electric energy to a purchaser's system through two or more points of delivery cannot be adequately controlled because:

a. Such points are interconnected within the purchaser's system, or

b. The purchaser's system is interconnected directly or indirectly with the Federal System, the purchaser's Measured Demand for each class of power for such system for any billing period shall be based on the largest of the hourly amounts of such class of power which have been scheduled for delivery to the purchaser under the applicable rate schedule.

2. *Contract Demand.* The Contract Demand shall be the number of kilowatts or kilowatthours that the purchaser (utility, direct service industrial customer, or other entity) agrees to purchase and BPA agrees to make available. BPA may agree to make deliveries at a rate in excess of the Contract Demand at the request of the purchaser (authorized increase), but shall not be obligated to continue such excess deliveries. The Contract Demand for a contracted computed requirements purchaser shall be the purchaser's Computed Peak Requirement. The billing energy for such a purchaser shall be the Computed Average Energy Requirement multiplied by the number of hours in the billing month. Such billing amounts shall be determined pursuant to section 17(b)(8) of the purchaser's power sales contract.

3. *Auxiliary Demand.* Auxiliary Demand is the number of kilowatts of Authorized Increase (auxiliary power) that a direct service industrial purchaser requests and that BPA is able to make available to serve that purchaser's load.

4. *Computed Peak Requirement.* The purchaser's Computed Peak Requirement for each billing month shall be the largest amount during such month by which the purchaser's actual 60-minute system demand, excluding any loads otherwise provided for in the contract, exceeds its assured peaking capability for such month.

5. *Computed Average Energy Requirement.* The purchaser's Computed Average Energy Requirement for each billing month shall be the amount during such month by which the purchaser's actual system average load exceeds its assured average energy capability.

6. *Computed Maximum Requirement.* The Computed Maximum Requirement is the larger of the Computed Peak Requirement and the Computed Average Energy Requirement.

7. *Operating Demand.* The Operating Demand shall be that demand which is mutually agreed upon by BPA and the purchaser and which is thereinafter termed the Operating Demand. The Operating Demand shall be contained in the operating agreement and/or the annual operating plan.

8. *Curtailed Demand.* A Curtailed Demand shall be the number of kilowatts of:

1. Industrial Firm Power, or
2. Authorized Increase of:
a. Priority Firm Power,
b. New Resource Firm Power, or
c. Industrial Firm Power

which results from the purchaser's request for such power in amounts less than the Operating Demand or Contract Demand therefor. Each purchaser of Industrial Firm Power may curtail its demand in accordance with the contract. Each purchaser of an Authorized Increase may curtail its demand in accordance with section II.C of the General Rate Schedule Provisions.

9. *Restricted Demand.* A Restricted Demand shall be the number of kilowatts of:

a. Industrial Firm Power, or
b. Authorized Increase of:
(1) Priority Firm Power,
(2) New Resource Power, or
(3) Industrial Firm Power

which results when BPA has restricted delivery of such power for one (1) clock-hour or more.

Such restrictions by BPA are made pursuant to the power sales contract for:

a. Industrial Firm Power, and

b. Authorized Increase of Industrial Firm Power and pursuant to section II.A of the General Rate Schedule Provisions for:

a. Priority Firm Power,
b. New Resource Firm Power, and
c. Authorized Increase of:
(1) Priority Firm Power, or
(2) New Resource Firm Power

Such Restricted Demand shall be determined by BPA after the purchaser has made its determination to accept such restriction or to curtail its demand for the month in accordance with section III.A.8 of the General Rate Schedule Provisions.

B. Billing Factors for Energy.

1. *Measured Energy.* The purchaser's Measured Energy shall be determined according to this section unless the terms of a contract executed after December 5, 1980, provide otherwise. Except where deliveries are scheduled as hereinafter provided, the Measured Energy in kilowatthours shall be the total of the 60-minute clock-hour integrated demands at which electric energy is delivered to a purchaser during each time period in the applicable rate schedule during any billing period. Such 60-minute integrated demands shall be determined from measurements as specified in the contract or as determined in section III.A.8 herein. For those contracts to which BPA is a party and which provide for delivery of more than one class of power to the purchaser at any point of delivery, the portion of each 60-minute integrated demand assigned to any class of power shall be determined as specified in the contract. The sum of the portions of the integrated demands so assigned shall constitute the Measured Energy for such class of power.

If the flow of electric energy to a purchaser's system through two or more points of delivery cannot be controlled adequately because such points are interconnected within the purchaser's

system, or the purchaser's system is interconnected directly or indirectly with the Federal system, the purchaser's Measured Energy for each class of power shall be based on the sum of the hourly amounts of such class of power which are scheduled for delivery to the purchaser during each billing month.

2. *Computed Energy Maximum.* The Computed Energy Maximum equals the product of the number of hours in the billing month and the Computed Average Energy Requirement.

C. Billing Adjustments

1. *Power Factor Adjustment.* The formula for determining average power factor is as follows:

$$\text{Average power factor} = \frac{\text{Kilowatthours}}{\sqrt{(\text{Kilowatthours})^2 + (\text{Reactive kilovoltamperehours})^2}}$$

The data used in the above formula shall be obtained from meters which are ratcheted to prevent reverse registration.

When deliveries to a purchaser at any point of delivery either:

a. Include more than one class of power, or

b. Are under more than one rate schedule

and it is impracticable to meter the kilowatthours and reactive kilovoltamperehours for each class or rate schedule separately, the average power factor of the total deliveries for the month will be used, where applicable, as the power factor for each of the separate classes of power and rate schedules.

To maintain acceptable operating conditions on the Federal system, BPA may, unless specifically otherwise agreed, restrict deliveries of power to a purchaser. Such restriction may be made to a point of delivery or to a purchaser's system at any time that the average leading power factor or average lagging power factor for all classes of power delivered to such point or to such system is below 75 percent.

2. *Exchange Adjustment Clause.* The Exchange Adjustment shall be based on the average cost of exchange resources acquired by BPA from:

a. Pacific Power and Light (PP&L);

b. Portland General Electric (PGE);

c. Idaho Power Company (IPC);

d. Utah Power and Light (UP&L);

e. C. P. National (CPN).

To the extent that the average cost of these exchange resources differs from that forecast for development of rates, a rebate shall be given or a surcharge assessed to all those purchasing under rate schedules which include this adjustment.

There will be an Exchange Adjustment for each of the two rate periods in the rate schedules. Period A begins November 1, 1983, and continues through June 30, 1984. Period B begins July 1, 1984, and continues through June 30, 1985. (Although the rate schedules themselves may stay in effect beyond June 30, 1985, the Exchange Adjustment shall not apply to any sales made after June 30, 1985.) References for Period B are shown in parentheses immediately following references for Period A.

Purchasers may elect one of the following two Exchange Adjustment options:

Option 1: Monthly adjustments using BPA's estimated billing process. At the end of each rate period, the sum of the monthly adjustments shall be reconciled with a single adjustment for the period using actual bills and costs, or

Option 2: One adjustment for each rate period based on actual bills and costs.

A purchaser which does not provide BPA with a written indication of its choice by December 1, 1983, shall be deemed to have selected the same option as the one applied to sales under the 1982 wholesale power rates. If the purchaser selects a different option, BPA shall, if necessary, issue a revised power bill to account for the change. The purchaser may not change options while these rate schedules are in effect.

Option 1

For customers electing Option 1, the adjusted monthly bill shall be calculated as follows:

$$AMB = UMB + \left(EC * .652 * \frac{AMC - 31.1}{31.1} * UMB\right)$$

(For adjustment in Period B, substitute .632 for .652 and 32.9 for 31.1 in the formula above.)

where:

AMB = adjusted monthly bill due to BPA;

UMB = unadjusted monthly bill, which is the total estimated or actual dollar amount due to BPA for service during that month before the Exchange Adjustment is applied;

EC = the percentage calculated by dividing total exchange costs allocated to the class of service by the total revenue requirement for the class of service; the value for "EC" is provided in the rate schedule for the class of service in question;

AMC = the average monthly cost (estimated or actual) in mills per kilowatthour (rounded to the nearest tenth of a mill) of all exchange resources acquired from PP&L, PGE, IPC, UP&L, and CPN during that month. Interest payments made pursuant to Section IV(E) of the Average System Cost Methodology (Exhibit C to the Residential Purchase and Sale Agreements) shall not be included in the AMC.

At the end of the rate period either a rebate shall be given or a surcharge assessed to reflect the difference between the effect of a single adjustment for the rate period based on actual exchange costs and loads and the sum of the monthly exchange adjustments based either on actual or estimated costs. First, BPA shall determine the total adjusted bill for Period A (Period B) based on the actual average cost of exchange resources acquired from PP&L, PGE, IPC, and UP&L during Period A (Period B). The total adjusted bill for Period A (Period B) shall be calculated as follows:

$$TAB = TUB + \left(EC * .652 * \frac{AAC - 31.1}{31.1} * TUB\right)$$

(For adjustment in Period B, substitute .632 for .652 and 32.9 for 31.1 in the formula above.)

where:

TAB = total adjusted bill for Period A (Period B);

TUB = total unadjusted bill which would have been charged to the purchaser for service during Period A (Period B) if no Exchange Adjustment had been applied;

AAC = actual average cost in mills per kilowatthour (rounded to the nearest tenth of a mill) of exchange resources acquired during Period A (Period B) from PP&L, PGE, IPC, UP&L, and CPN. Interest payments made pursuant to Section IV(E) of the Average System Cost Methodology (Exhibit C to the Residential Purchase and Sale Agreements) shall not be included in the AAC. If:

$$\left(EC * .652 * \frac{AAC - 31.1}{31.1}\right)$$

is less than .001, TAB is deemed to equal TUB and no final adjustment shall be made. (For adjustment in Period B, substitute .632 for .652 and 32.9 for 31.1 in the formula above.)

The sum of the adjusted monthly bills shall then be compared to the total adjusted bill. Either a rebate shall be given or a surcharge assessed to the purchaser to reflect the difference between the two. The rebate or surcharge under Option 1 includes an interest payment and shall be calculated as follows:

$$\text{Rebate (Surcharge)} = (\text{EAMB} - \text{TAB}) * (1 + \frac{\text{INT}}{2})$$

where:

EAMB = the sum of the adjusted monthly bills rendered during Period A (Period B);

INT = the average short-term interest rate BPA earns from the U.S. Treasury in Period A (Period B).

Option 2

For customers electing Option 2, the rebate or surcharge for each customer for each period shall be calculated as follows:

$$\text{Rebate (Surcharge)} = \text{EC} * .652 * \frac{\text{AAC}-31.1}{31.1} * \text{BILL} * (1 + \frac{\text{INT}}{2})$$

(For adjustment in Period B, substitute .632 for .652 and 32.9 for 31.1.)

where:

EC = the percentage calculated by dividing exchange costs allocated to the class of service by the total revenue requirement for the class of service; the value for "EC" is provided in the rate schedule for the class of service in question;

AAC = actual average cost in mills per kilowatthour (rounded to the nearest tenth of a mill) of exchange resources acquired during Period A (Period B) from PP&L, PGE, IPC, UP&L, and CPN. Interest payments made pursuant to Section IV(E) of the Average System Cost Methodology (Exhibit C to the Residential Purchase and Sale Agreements) shall not be included in the AAC;

BILL = total dollar amount charged the customer for service under this rate schedule;

INT = the average short-term interst rate BPA earns from the U.S. Treasury in Period A (Period B).

Provisions for Final Adjustment (Option 1 and Option 2)

The rebate or surcharge based on the actual average exchange costs shall be calculated as soon after July 1, 1984 (July 1, 1985), as possible. Payment of the final adjustment (either the rebate or the surcharge) shall be made within 30 days of the date on the adjustment notice provided to the purchaser.

The final rebate or surcharge shall be subject to adjustment upward or downward after July 1, 1985 (July 1, 1986), if the Joint State Board, the Federal Energy Regulator Commission, a reviewing court, or BPA makes any adjustment prior to July 1, 1985 (July 1, 1986), which changes the actual average cost (AAC, as defined in this section), from the AAC used to calculate the final rebate or surcharge. No adjustment in the rebate or surcharge amount shall be made for any such adjustments made after July 1, 1985 (July 1, 1986).

3. *Supply System Adjustment Clause (SSAC).* An adjustment shall be made to the charges for Period B (OY 1985) in those rate schedules which include the Supply System Adjustment. The SSAC adjusts for changes in the total cost of Supply System Plants 1, 2, and 3.

The adjustment for each rate schedule shall be calculated as follows:

$$\frac{\text{SS} * ((\text{ACT} - \$724{,}300) * 67) + \text{BUD} - \$835{,}075)}{\text{BD}}$$

where:

SS = The percentage of total Supply System costs allocated to the class of service in the Cost of Service Analysis for Period B; the value for "SS" is provided in the rate schedule for the class of service in question;

ACT = the Net Funding Requirements (in thousand of dollars) in the Supply System Annual Budget for operating year (OY) 1984 as of May 1, 1984;

BUD = the Net Funding Requirements in thousands of dollars in the Supply System Annual Budget or amendment thereto for OY 1985, as of June 15, 1984;

BD = for the PF-83 Priority Firm rate schedule, the sum of the winter and summer energy billing determinants (in gigawatthours) for the class of service as forecasted in the Wholesale Power Rate Design Study; for the CF-83 Firm Capacity rate schedule, BD shall equal the sum of the winter and summer generation capacity billing determinants in megawattmonths; the value for "BD" is provided in the rate schedule for the class of service in question.

This adjustment shall be made if:

$$\left[\frac{((\text{ACT}-\$724{,}300) * 67) + (\text{BUD}-\$835{,}075)}{\$1{,}320{,}356}\right] \geq .01$$

Prior to July 1, 1984, BPA shall notify the purchaser of

a. The differences between the actual OY 1984 Supply System costs and those in the Revenue Requirement Study for OY 1984, and/or

b. Any revisions in the OY 1985 Supply System Annual Budget not reflected in the Revenue Requirement Study for OY 1985.

BPA shall mail affected parties a summary of the changes and a statement of the unit adjustment caused by those changes. In addition, BPA will hold an informational customer meeting to explain the changes.

Section IV. Other Definitions

A. Restriction of Deliveries

Deliveries of capacity and/or energy to any purchaser may be restricted when operation of the facilities used by BPA to service such purchaser is:

1. Suspended;
2. Interrupted;
3. Interfered with;
4. Curtailed, or
5. Restricted.

by the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service sections of the General Contract Provisions of the power sales contract.

B. Computed Requirements Purchasers

1. *Designation as a Computed Requirements Purchaser.* A purchaser will be designated as a computed requirements purchaser if it is so designated in its power sales contract executed after December 5, 1980, or it if has one or more potential abilities as described in paragraphs a. and b. below:

a. Such purchaser has generation of its own which can be sold in such a way as to increase BPA's obligation to deliver firm power to that purchaser because of such sale or,

b. Such purchaser has the ability to redistribute generation from its resources over time in such a manner as to cause losses of power or revenue on the Federal system.

When a purchaser operates two or more separate system, only those systems designated by BPA will be covered by this section.

2. *Purpose of the Computed Requirements Designation.* Use of the computed requirements designation is intended to assure that each purchaser who purchases power from BPA to supplement its own firm resources will purchase amounts of capacity and energy substantially equal to that which the purchaser would otherwise have to provide on the basis of normal and

prudent operations. Such amount of capacity and energy is that which would be sufficient to meet the load and provide adequate reserves through the most critical water or other conditions that might reasonably be expected to occur.

Purchase on a computed requirements basis depends on the relationship of capability of resources to system requirements. Thus, the billing factors to be applied to a computed requirements purchaser for any month cannot be determined until after the end of the month. As each purchaser must estimate its own load and is in the best position to follow that load from day to day, it is the purchaser's responsibility to request scheduling of power from BPA.

3. *Definition and Terms Relating to Computed Requirements Purchasers With Power Sales Contracts Executed Prior to December 5, 1980. Those purchasers whose power sales contracts were executed prior to December 5, 1980, and who are designated as computed requirements purchasers based on the abilities listed in section IV.B.1.a, above, shall be governed by the terms of this section (IV.B.3).*

a. *General Principles.* (1) The assured peaking capability and assured average energy capability of each of the purchaser's systems shall be determined and applied separately.

(2) As used in this section, "year" or "operating year" shall mean the 12-month period commencing July 1.

(3) The critical period is that period, described below, during which the purchaser would have the maximum requirement for peaking or energy from BPA. That period would be determined for the purchaser's system under adverse streamflow conditions and adjusted for:

(a) Current water uses;

(b) Assured storage operation; and

(c) Appropriate operating agreements.

In determining the maximum requirement for peaking or energy from BPA, the firm capability of all resources available to the purchaser shall be utilized in such a manner as to place the least requirement on BPA.

(4) Critical water conditions are those conditions of streamflow in the operating year or years which would result in the minimum capability of the purchaser's firm resources during the critical period. Those conditions of streamflow are based on historical records as adjusted for:

(a) Current water uses;

(b) Assured storage operation; and

(c) Appropriate operating agreements.

(5) Prior to the beginning of each operating year, the purchaser shall determine the assured capability of each of the purchaser's systems in terms of peaking and average energy for each month of each year or years within the critical period. The firm capability of all resources available to the purchaser's system shall be utilized in such a manner as to place the least requirement for capacity and energy on BPA. Such assured capability shall be effective after review and approval by BPA.

(6) The purchaser's assured average energy capability shall be determined by shaping its firm resources to its firm load in a manner which places a uniform requirement on BPA within each year of the critical period. The requirement placed on BPA may increase each year, but by no more than the sum of:

(a) The purchaser's annual load growth; and

(b) Any reductions in assured average energy capability caused by retirement or loss of one of the purchaser's firm resources.

(7) As used herein, the capability of a firm resource shall include only that portion of the total capability of such resource which the purchaser can deliver to its load on a firm basis. The capabilities of all generating facilities which are claimed as part of the purchaser's assured capability shall be determined by test or other substantiating data acceptable to BPA. BPA may require verification of the capabilities of any or all of the purchaser's generating facilities. Such verification will not be required more often than once each year for operating plants, or more often than once each third year for thermal plants in cold standby status, if BPA determines that adequate annual preventive maintenance is performed and the plant is capable of operating at its claimed capability.

(8) In determining assured capability, the aggregate capability of the purchaser's firm resources shall be appropriately reduced to provide adequate reserves.

b. *Determination of Assured Capability.* The purchaser's assured peaking and assured energy capabilities shall be the respective sums of:

(1) The capabilities of its hydroelectric generating plants based on the most critical water conditions experienced to date on the purchaser's system,

(2) The capabilities of its thermal generating plants based on such adverse fuel or other conditions which might reasonably be expected to occur, and

(3) The firm capabilities of other resources made available to the purchaser under contracts executed prior to the beginning of the operating year. The firm capabilities of these acquired resources will be based on the capabilities after adjustment for reserves.

Assured capabilities shall be determined for each month if the purchaser has seasonal storage. The capabilities of the purchaser's firm resources shall be determined as follows:

(1) *Hydroelectric Generating Facilities.* The capability of each of the purchaser's hydroelectric generating plants shall be determined in terms of both peaking and average energy using critical water conditions. The average energy capability shall be that capability which would be available under the conditions necessary to produce the claimed peaking capability.

Seasonal storage shall mean storage sufficient to regulate all the purchaser's hydroelectric resources in such a manner that, when combined with the purchaser's thermal generating facilities, if any, and with firm capacity and energy available to the purchaser under contracts, a uniform energy requirement on BPA for a period of one (1) month or more would result.

A purchaser having seasonal storage shall, within 10 days after the end of each month in the critical period, notify BPA in writing of the assured average energy capability to be applied tentatively to the preceding month. Such notice shall also specify the purchaser's best estimate of its average system energy load for such month. If such notice is not submitted, or is submitted later than 10 days after the end of the month to which it applies, subject to the limitations stated herein, the assured average energy capability determined for such month prior to the beginning of the year shall be applied to such month and may not be changed thereafter.

If notice has been submitted pursuant to the preceding paragraph, the purchaser shall, within 30 days after the end of the month, submit final specification of the assured average energy capability to be applied to the preceding month, provided that the assured energy capability so specified shall not differ from the amount shown in the original notice by more than the amount by which the purchaser's actual average system energy load for such month differs from the estimate of that load shown in the original notice. If the assured average energy capability for such month differs from that determined prior to the beginning of the year for such month, the purchaser, if required by BPA, shall demonstrate by a suitable regulation study based on critical water conditions:

(a) That such change could actually be accomplished; and

(b) That the remaining balance of its total critical period assured average energy capability could be developed without adversely affecting the firm capability of other purchasers' resources.

The algebraic sum of all such changes in the purchaser's assured average energy capability shall be zero at the end of the critical period or year, whichever is earlier. Appropriate adjustments in the assured peaking capability shall be made if required by any change in reservoir operation as indicated be revisions in the monthly distribution of critical period energy capability.

(2) *Thermal Generating Facilities.* The capability of each of the purchaser's thermal generating plants shall be determined in terms of both peaking and average energy. Such peaking and average energy capabilities shall be based on those adverse fuel or other conditions that might reasonably be expected to occur. The effect of limitations on fuel supply due to war or other extraordinary situations will be evaluated at the time, should any such situation arise.

(3) *Other Sources of Power.* The peaking and average energy assured capability of other firm resources available under contracts to the purchaser shall be determined prior to each operating year.

Section V. Application of Rates Under Special Circumstances

A. Temporary Curtailment of Contract Demand

The reduction of charges for power curtailed pursuant to the purchaser's contract and section II.C and III.A.8 hereof shall be applied in a uniform manner.

B. Energy Supplied for Emergency Use

A purchaser taking Priority and/or New Resource Firm Power shall pay in accordance with the Nonfirm Energy Rate Schedule, NF-83, and Emergency Capacity Rate Schedule, CE-83, for any electric energy or capacity which has been supplied:

1. For use during an emergency on the purchaser's system; or

2. Following an emergency to replace energy secured from sources other than BPA during such emergency.

Mutual emergency assistance may, however, be provided and settled under exchange agreements.

C. Application of Rates During Initial Operation Period

For an initial operating period, not in excess of 3 months, beginning with the commencement of operation of a new industrial plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof, BPA may agree to bill the purchaser in accordance with the provisions of this section. This section shall apply to both:

1. Direct-service industrial purchasers having new, additional, or reactivated plant facilities; and

2. Utility purchasers serving such an industrial purchaser with power purchased from BPA.

If the purchaser requests billing on a Measured Demand basis pursuant to section 4 of the power sales contract and if BPA agrees to such billing, the billing demand for the billing month shall be the average of the daily Measured Demands, as adjusted for power factor. However, at no time during the period of restoration, as defined in section 4(e) of the power sales contract, shall the daily billing demand be lower than any previous such demand during such period. Should the Measured Demand for any day during such period be lower than the billing demand for the previous day, the previous day's billing demand shall be used as the billing demand for such day.

Any rate schedule provisions regarding Contract Demand, billing demand, and minimum monthly charges which are inconsistent with this section shall be inoperative during such initial operating period.

The initial operating period and the special billing provisions may, on approval by BPA, be extended beyond the initial 3-month period for such additional time as is justified by the developmental character of the operations.

D. Construction, Test and Start-up, and Station Service

Power for the purpose of construction, test and start-up, and station service shall be made available to eligible purchasers under the Priority Firm and New Resource Rate Schedules. Such power must be used in the manner specified below:

1. Power sold for construction is to be used in the construction of the project.

2. Power sold for test and start-up may be used prior to commercial operation both to bring the project on line and to ensure that the project is working properly.

3. Power sold for station service may be purchased at any time following commercial operation of the project. Station service power may be used for project start-up, project shut-down, normal plant operations, and operations during a plant shut-down period.

Section VI. Billing Information

A. Billing for Purchasers with More than One Point of Delivery

Unless otherwise provided in the contract, power made available to a purchaser at more than one point of delivery shall be billed separately under the applicable rate schedule or schedules. The contract may provide for combined billing under specified conditions and terms when:

1. Delivery at more than one point is beneficial to BPA; or

2. The flow of power at the several points of delivery is reasonably beyond the control of the purchaser.

If deliveries at more than one point of delivery are billed on a combined basis for the convenience of the customer, a charge will be made for the diversity between the Measured Demands at the several points of delivery. The charge for the diversity shall be determined in a uniform manner among purchasers and shall be specified in the contract.

B. Determination of Estimated Billing Data

If the purchased amounts of capacity, energy, or the 60-minute integrated demands for energy must be estimated from data other than metered or scheduled quantities, BPA and the purchaser will agree on billing data to be used in preparing the bill. If the parties cannot agree on estimated billing quantities, a determination binding on both parties shall be made in accordance with the arbitration provisions of the contract.

C. Billing Month

Meters normally will be read and bills computed at intervals of 1 month. A month is defined as the interval between meter-reading dates which normally will be approximately 30 days. If service is for less or more than the normal billing month, the monthly charges stated in the applicable rate schedule shall be adjusted appropriately. Winter and summer periods identified in the rate schedules will begin and end with the beginning and ending of the purchaser's billing month having meter-reading dates closest to the periods so identified.

D. Payment of Bills

Bills for power shall be rendered monthly and shall be payable at the Division of Fiscal Accounting and Disbursement located in BPA's Headquarters at 1002 N.E. Holladay Street, Portland, Oregon. Payments by mail should be sent to the Bonneville Power Administration, P.O. Box 6040,

Portland, Oregon 97228. Failure to receive a bill shall not release the purchaser from liability for payment. Demand and energy billings under each rate schedule application shall be rounded to whole dollar amounts, by eliminating any amount which is less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

If BP is unable to render the purchaser a monthly bill which includes a full disclosure of all billing factors, it may elect to render an estimated bill for that month to be followed at a subsequent billing date by a final bill. Such estimated bill shall have the validity of and be subject to the same repayment provisions as shall a final bill.

Bills not paid in full on or before the close of business of the 20th day after the date of the bill shall bear an additional charge which shall be the greater of one-fourth percent (0.25%) of the unpaid amout or $50. In addition, a charge of one-twentieth percent (0.05%) of the sum of the initial amount remaining upaid and the additional charge herein described shall be added on each succeeding day until the amount due is paid in full.

Remittances received by mail will be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the 20th day after the date of the bill. If the 20th day after the date of the bill is a Sunday or other nonbusiness day of the purchaser, the next following business day shall be the last day on which payment may be made to avoid such further charges. Payment made by metered mail and received subsequent to the 20th day must bear a postal department cancellation in order to avoid assessment of such further charges.

BPA may, whenever a power bill or a portion thereof remains unpaid subsequent to the 20th day after the date of the bill and after giving 30 days' advance notice in writing, cancel the contract for service to the purchaser. However, such cancellation shall not effect the purchaser's liability for any charges accrued prior thereto.

In the event of a disputed billing, full payment shall be rendered to BPA and the disputed amount noted. Payments of disputed amounts are subjects to late payment provisions. BPA shall separately account for the disputed amount. If it is determined that the purchaser is entitled to the disputed amount, BPA shall refund the disputed amount with interest.

IV. Major Issues

A. Major Studies

1. *Revenue Requirement Study.* The Bonneville Project Act, the Flood Control Act, the Transmission System Act, and the Regional Act set out criteria that require BPA to produce revenue sufficient to recover the cost of producing, acquiring, conserving, and transmitting the electric power that BPA markets; to recover the cost of transmitting power for other parties; and to repay with interest the Federal investment in transmission and generation facilities in the FCRPS. The Revenue Requirement Study determines the minimum amount of revenues that is necessary to recover all costs of the cost evaluation period over the repayment period for the entire power system. It determines whether current rates will produce enough revenue to satisfy BPA's repayment obligation.

The Revenue Requirement Study for the initial rate proposal is based on revenue and cost estimates for fiscal years (FY) 1984 and 1985 adjusted to represent the 12-month test period commencing July 1, 1984. If actual loads and costs differ from projected loads and costs, BPA may experience a revenue surplus or shortage. Small revenue shortages can be dealt with by deferring interest and amortization payments on appropriated funds, but sound busines principles dictate that this be only a temporary means of satisfying cash shortages.

It is a common utility practice for capital projects to be partially financed from internally generated funds or current revenue. As a self-supporting agency of the Federal government, BPA is only able to generate funds from debt or rates. To continue its efforts to be fiscally sound, BPA has decided to raise the revenue requirement to accommodate the goal of financing from revenue 5 percent of the BPA capital projects scheduled for completion during the rate period.

Lower estimates of revenue and cost than those projected in the 1982 Wholesale Power Rate Filing for fiscal years 1982 and 1983 will cause BPA transfers to the Treasury in fiscal year 1983 for amortization and deferral to be lower than planned. BPA experienced an additional deferral of $43.7 million in fiscal year 1982, increasing the cumulative deferral to $152.2 million by September 30, 1982.

COMPARISON OF ESTIMATED AND ACTUAL FISCAL YEAR 1982 REVENUE AND COST

[Dollars in thousands]

	Actual	1982 rate estimate
Revenue	1,354,436	1,302,200
Less costs		
Annual expense	206,993	205,009
Purchase power	939,371	937,500
Interest	251,799	269,141
1982 Deferral	43,727	109,450

The following table shows that BPA will have $159.7 million for transfer to the Treasury in FY 1983, rather than the $224.1 million projected in the 1982 Wholesale Power Rate Filing.

COMPARISON OF FISCAL YEAR 1983 PROJECTIONS

[Dollars in thousands]

	1982 rate estimate	Current estimate
Revenue	2,226,566	2,066,125
Less costs		
Annual expense	289,180	293,983
Purchase power	1,390,500	1,308,600
Interest	322,783	308,612
Amortization (including effects of deferral)	224,103	159,730

In order to meet its fiscal responsibilities (which include eliminating deficits and making planned amortization payments), BPA's Revenue Requirement Study reflects actual historic cash amortization, and assumes repayment of deferrals plus all normal scheduled amortization by September 30, 1985. In addition, it reflects all of BPA's obligations under the Regional Act, including exchange costs. To assist BPA in meeting its repayment obligations, a cash lag adjustment has been added to the revenue requirement.

BPA's total revenue requirement is determined directly from the Revenue Requirement Study. The study used for this proposal demonstrates the need for a 21.7 percent overall revenue increase for test year 1985 to meet BPA's revenue requirement of $2.8 billion. This amount is $.5 billion greater than the $2.3 billion of revenue projected for test year 1985 under current rates. The following table shows a breakdown of the revenue requirement.

Test Year 1985 Projections

[Dollars in thousands]

Less costs	
Annual expense	351,070
Purchase power	1,927,025
Interest	365,561
Amortization (including effects of Deferral)	196,210
Total	2,839,867

2. *Load and Resources Study.* The preparation of the load forecast and the resource forecast is one of the first steps in developing rates. For this rate filing, BPA develops an econometric forecast of nongenerating and small generating public utility loads. The forecast was based on projections of economic and demographic data from Washington, Oregon, and Idaho. BPA also develops an economic forecast of DSI loads which relies to a large extent on forecasts of aluminum prices and future electric power rates. The forecasted DSI load includes the assumption that a permanent reduction in the DSI load equivalent to the load of two aluminum plants would occur at the projected rates. Forecasted IOU residential exchange loads and scheduling public utility loads are used as submitted by the respective utilities.

Energy savings from programmatic conservation expenditures are estimated based on review of budget levels and expected accomplishments through FY 1985. Projected savings beyond FY 1985 are developed from penetration "ramps," i.e., the rate at which conservation is projected to occur, developed for BPA by an independent contractor. The monthly capacity savings in average megawatts from conservation efforts are assumed to be 1.3 times the monthly energy savings in average megawatts. This ratio is based on a review of BPA system capacity and energy loads over a 6-year period. Conservation savings are then reduced by 20 percent to reflect the impact of increased electricity prices on consumption. The price adjusted conservation program savings are then divided between IOU's, generating public utilities, and nongenerating public utilities. After the capacity and energy savings are identified with these three customer classes, the loads of the public utilities were reduced. These loads are then used to accomplish the resource forecast.

The resource forecast is developed to determine the Administrator's obligation during the test year and the critical period, and to determine the magnitude of surplus firm power in the region and on the Federal system in the critical period. This entails performing a hydro regulation study which incorporates a Water Budget for fish operations and the operation and maintenance cycles for various thermal plants in the region, and projected resource acquisitions. For this rate filing, two 42-month critical period hydro studies are made. The first study starts in September 1983, and the second starts in September 1984. The studies are then used to determine the critical period surplus for the region.

The regional resources are classified as either dedicated or nondedicated to firm loads of their respective owners. Nondedicated resources increase the non-Federal firm surplus. Using information on dedicated resources, the uniform Federal firm surplus for the two critical periods is computed. The amount of firm surplus is used for cost allocation, rate design, and revenue forecasting.

3. *Revenue Forecast Study.* The revenue forecast uses information developed from the Load and Resource Study and other sources to project BPA revenue under current and proposed rates for the period from October 1982 through June 1985. The projected sales used in the Revenue Forecast Study are used in the Cost of Service Analysis and in the Wholesale Power Rate Design Study. The Revenue Forecast Study also includes historical sales and revenue information from FY 1978 through FY 1982.

Fiscal year 1983 revenue is forecasted to be about $115 million lower than projected in the final 1982 Wholesale Power Rate Proposal. This is due to three major factors: (1) Failure to make expected sales under the Surplus Power rate schedule (SP-1), (2) lower than expected industrial sales due to the economic recession lasting longer than anticipated, and (3) the average system costs of utilities taking part in the 5(c) residential exchange being lower than anticipated. The revenue reduction from the lower exchange costs does not adversely affect BPA's repayment schedule because the revenue reduction is matched by equivalent or greater cost reductions.

For the forecast for the test period, BPA is significantly reducing its estimate of industrial sales and the rate at which the aluminum industry will recover from the current recession. BPA also is reducing its estimate of the amount of surplus firm power which will be sold at the surplus power rate. In the final 1982 Wholesale Power Rate Proposal, BPA assumed that all of the surplus firm power (560 average megawatts) would be sold at the SP rate. For the initial 1983 rate proposal, BPA is assuming that during OY 1985 less than 50 percent of the surplus firm power will be sold at its fully allocated cost. The revised assumptions contained in the Revenue Requirement Study increase the likelihood that BPA will meet its repayment objectives.

4. *Cost of Service Analysis (COSA).* The form and magnitude of the proposed rate schedules are strongly influenced by the results of the COSA. The COSA is based on generally accepted electric utility industry practices and procedures for this type of analysis, although modifications are made to reflect the repayment method used by Federal power marketing agencies to determine revenue requirements. Together with certain adjustments detailed in the Wholesale Power Rate Design Study (WPRDS), the COSA is designed to determine the cost of providing service to various classes of service.

The COSA procedure begins by selecting a test year and determining the investment and operating expense involved in providing service in that year. Operating year (OY) 1985 is used as the test year for the proposed rates.

a. *Functionalization.* The first step of the COSA is to identify investment and annual costs according to the functions performed by the power system. These functions are defined as generation and transmission. All costs are assigned to one of these functions.

A direction of effort study is prepared to determine how certain facilities and operating expenses should be functionalized. Managers in each BPA subdivision identify both the percentage of staff effort expended on each of the functions and the functional use of facilities. The application of the results of the direction of effort study to the test year cost estimates yields functionalized cost data.

BPA has also functionalized its net repayment requirement (NRR). The NRR is the difference between the total revenue requirement as determined in the Revenue Requirement Study and total annual costs, and represents the portion of the total revenue requirement related to the cost of invested capital. The method adopted for functionalizing the NRR develops separate carrying charges for generation, transmission, and conservation using the average interest rate and amortization lives of each type of investment. These carrying charges are used to develop the percentages of the net repayment requirement functionalized to generation, transmission, and conservation.

b. *Classification.* The costs functionalized to generation are classified between capacity and energy. The classification of generation costs is based on the principle of cost causation. This method apportions generation costs between capacity and energy in relation to the causes underlying the construction and operation of various generating plants; i.e., the cost of facilities constructed to meet peaking capacity is classified entirely to

capacity and the cost of facilities that provide both capacity and energy is apportioned between the two functions.

The costs of the hydroelectric peaking units, including previously constructed substructures, are classified to capacity because providing capacity has been the primary purpose for installing these units. These peaking units would not have been needed if capacity requirements had not increased, since they produce no incremental energy under critical water conditions.

Classification of the baseload hydroelectric plants is a function of the energy produced by the base system under critical streamflow conditions and the peaking capacity of these units based on a sustained 10-hour peak period. Hydroelectric baseload system plant costs for the test year as well as associated operation and maintenance costs are classified 27 percent to energy and 73 percent to capacity.

BPA's classification method for all other generation resources recognizes that they are being acquired primarily to provide baseload energy. The classification percentages applied to generation resources other than hydroelectric are derived in the Time-Differentiated Long Run Incremental Cost (TDLRIC) Analysis. This results in classification of 17 percent of total plant costs to capacity and 83 percent to energy. The results of the TDLRIC Analysis are also used to classify the cost of resource acquisitions and of energy conservation. Investor-owned utility exchange resources are functionalized and classified based on data supplied by those exchanging utilities. Public agency exchange costs are classified on the basis of the classification of Federal resources used to serve Priority Firm Loads. Transmission costs are classified to capacity.

c. *Segmentation.* Although BPA operates a regionwide transmission system, some segments of the system are not needed to provide some services. To equitably allocate the costs of the system among all classes of service, the system is divided into nine segments so that the costs of each segment can be separately identified and allocated in relationship to the service being provided. The nine transmission segments are: integrated network, Pacific Northwest-Southwest intertie, Canadian intertie, Montana intertie, generation integration, fringe area facilities, preference customer delivery facilities, DSI customer delivery facilities, and IOU delivery facilities.

d. *Seasonal Differentiation.* When the cost of providing electric service varies substantially, whether by time-of-day or season-of-the-year, it is appropriate to reflect this variation when allocating the costs among rate classes and in the resulting rate design. The COSA includes a seasonal differentiation of costs.

Generation capacity costs are seasonally differentiated based on an analysis of probabilities of negative margin contained in the TLRIC Analysis. Energy costs are seasonally differentiated based on the costs of hydroelectric storage and the operating characteristics of the FCRPS. Transmission costs are not seasonally differentiated.

e. *Allocation.* The final major step in the COSA is to allocate the functionalized, classified, and time-differentiated costs to service classes. The service classes included are wholesale power rates, transmission rates, other services, and miscellaneous services and revenues. The wholesale power rate category is further divided into the subcategories of Priority Firm, Industrial Firm, Firm Capacity, New Resource Firm, Surplus Firm, and Nonfirm Energy.

The method adopted for allocating generation capacity costs between the seasons is the average of the monthly coincidental peak (CP) demands for the winter (5 CP) and summer (7 CP) seasons corresponding to December through April and May through November, respectively. Because the power system is constructed to meet coincidental peak demand, this method reflects the contribution of each customer class, on a seasonal basis, to the need for total system capacity.

Costs associated with the nine segments of the FCRTS and exchange costs functionalized to transmission are allocated to the customer classes on the basis of the 12 monthly coincidental peak demands placed on the transmission system. Because the tranmission system is designed to provide capacity to meet coincidental peak demands over the full course of the operating year, this method reflects the contribution of each customer class to the need for total transmission capacity.

Costs classified to energy are allocated among the classes of service based on the portion of kilowatthour use of each class and portion of load supplied by each resource pool.

BPA proposes to recover the costs associated with funding of regional conservation programs through both BPA rates and provisions of long term conservation contracts. Total conservation costs are first divided into two portions according to a formula which identifies the rate benefits accruing to all BPA ratepayers and benefits accruing only to ratepayers of utilities participating in BPA funded conservation programs throughout the region. The portion representing benefits accruing to all BPA ratepayers is allocated to customer classes on the basis of their loads which are deemed to be served by FBS and new resources.

The remaining costs that are associated with regional loads are divided into two portions on the basis of the ratios of the loads served by BPA and non-BPA resources to total system loads. Costs associated with the BPA-served portion of regional loads are recovered in rates and allocated to the Prioritiy Firm and New Resources rate classes. Proposed recovery of all remaining costs (those not allocated to BPA rate classes) will be through a provision in the long term conservation contracts applicable to participants. Such costs will be recovered from those participants by a contract charge.

Costs associated with deferral of prior years' interest are functionalized and classified according to the functionalization and classification of all revenue requirements other than conservation. They are then allocated to each rate class based on the total use allocation factors regardless of the resource pool serving each class.

4. *Time-Differentiated Long Run Incremental Cost (TDLRIC) Analysis.* A TDLRIC Analysis is conducted by BPA to identify the incremental costs BPA incurs for new generation and transmission loads on a seasonal, daily, and hourly basis. The TDLRIC Analysis provides a basis for developing rates from an economic efficiency criterion. Considerable disagreement exists about how the concept of incremental cost pricing should be used in establishing rates. At issue are questions relating to the measurement or marginal costs, application of marginal costs to rates, and the adjustment of such rates to the revenue requirement. All of these issues are considered in developing the TDLRIC Analysis.

The long run incremental cost of generation is divided between capacity and energy costs. Derivation of incremental capacity costs is based on the resources added to the system to meet additional peaking requirements. A generic combustion turbine serves as the added peaking resource. Annualized investment cost, annual operation and maintenance expense, and annual fuel cost adjusted by a fuel energy credit (all expressed in beginning of year 1985 dollars) comprise the cost of the combustion turbine. These costs, adjusted for a reserve factor, produce a long run incremental capacity cost of

$45.19 per kilowatt. This cost plus BPA's incremental operation and maintenance costs associated with generation capacity result in a long run incremental cost of capacity for BPA of $46.39 per kilowatt.

The long run incremental cost of producing energy is based on the cost of baseload thermal power with an adjustment for a capacity credit. For the analysis, BPA assumes that the technology associated with a generic coal unit is typical of baseload power plant costs. Based on this technology, the long run incremental cost of energy is 33.39 mills per kilowatthour. This cost, plus BPA's incremental generation operation and maintenance expensed associated with energy, results in a long run incremental cost of energy for BPA of 34.29 mills per kilowatthour.

The long run incremental cost of transmission is based on additional transmission investment for the years 1984–1993. Only the transmission investment and operation and maintenance expense associated with the network segment is used in this analysis. The long run incremental cost of transmission network investment and the associated operation and maintenance expense are classified to capacity and energy. The classification percentages of 61 percent energy and 39 percent capacity are based on an analysis of projected load and load factor over the 1984–1993 period. Those costs classified to energy are not considered in the analysis because the energy portion of transmission network investment is considered to be a substitute to the generation energy investment. Thus, these costs are already considered in the estimate of the long run incremental cost of generation energy. The long run incremental capacity cost of network plus associated operation and maintenance expense is $8.32 per kilowatt.

The incremental cost of generation energy is seasonally, but not diurnally, differentiated. As a result of the Water Budget provided for in the Columbia Basin Fish and Wildlife Program, there is a substantial increase in the availability of energy during the month of May. From a planning perspective, incremental energy taken during the month of May will be less likely to entail the construction of large baseload energy producing plants than during other months of the year. In response to these considerations, the TDLRIC Analysis incorporates an energy differential which assigns zero costs to May and spreads the total incremental energy costs over the remaining 11 months.

Incremental capacity cost variations occur seasonally and diurnally. The seasonal periods are determined by a statistical analysis of BPA's loads and resources based on a 1957–1958 water year, which statistically approximates an average capacity related water year. This analysis assigns the relative probability that capacity will be exceeded, or the probability of a negative margin (PONM), to each month of the year. Hourly PONM data are not available for BPA. A similar process was used to establish hourly periods and days of the week. However, the selection was based on an analysis of historic loads and system operating characteristics.

Based on the seasonal, hourly, and day-of-the-week analysis, the winter peak period for generation capacity is defined as December through April, Monday through Friday, 7 a.m. to 10 p.m. The winter shoulder periods are Monday through Friday, 6 a.m. to 7 a.m. and 10 p.m. to 11 p.m. and Saturday and Sunday, 7 a.m. to 11 p.m. The summer peak and shoulder periods comprise the same hours and days of the week during the months of May through November. The offpeak capacity hours are all other hours of the year.

In examining transmission network capacity, the nature and design of the system must be considered. The network is designed and built to satisfy system peak loads with consideration given to ambient temperature change. Ambient temperature directly affects transmission resistance such that system load carrying capabilities are above average in the winter and less than average in the summer. These changes roughly offset seasonal variations in loads but amplify diurnal load variations. Consequently, transmission capacity costs are diurnally, but not seasonally, time-differentiated. The analysis indicates that the peak period for network costs should be Monday through Friday, 7 a.m. to 10 p.m., and the offpeak period should be all other hours for all months of the year.

After selecting the seasonal periods, cost allocation factors are developed. For long run incremental capacity costs, the pertinent relative PONM in each period is used to allocate capacity costs among periods. The PONM data indicate that 79 percent of capacity costs should be assigned to December through April and 21 percent of capacity costs should be assigned to May through November. In the TDLRIC analysis, transmission costs are assigned to the peak period for all months of the year.

The results of the TDLRIC Analysis are combined to form an illustrative rate schedule, briefly summarized as follows:

Energy Charge (mills/kWh):	
Generation Energy (January–April; June–December)	37.18
Generation Energy (May)	0
Demand Charges ($/kW):	
Winter Peak (December–April, Monday–Friday, 7 a.m.–10 p.m.):	
Transmission Network	.62
Generation Capacity	6.91
Winter Shoulder (December–April; Monday–Friday, 6 a.m.–7 a.m. and 10 p.m. to 11 p.m.; Saturday and Sunday, 7 a.m. to 11 p.m.):	
Generation Capacity	1.91
Summer Peak (May–November; Monday–Friday, 7 a.m. to 10 p.m.):	
Transmission Network	.62
Generation Capacity	1.43
Summer Shoulder (May–November; Monday–Friday, 6 a.m. to 7 a.m. and 10 p.m. to 11 p.m.; Saturday and Sunday, 7 a.m. to 11 p.m.): Generation Capacity	.37
All other hours of the year	0

B. Wholesale Power Rates

Issues directly related to individual rate schedules are discussed in section 1, below. Issues related to more than one schedule are presented in section 2.

1. *Issues Related to Individual Rate Schedules.*—a. *Priority Firm Power Rate, PF–83.* BPA sells Priority Firm power to public bodies, cooperatives, Federal agencies, and utilities participating in the exchange under Section 5(c) of the Regional Act. This power must be used to meet firm loads within the Pacific Northwest.

The Priority Firm load is served with FBS and exchange resources. The PF–83 rate consists of a demand charge which is time-differentiated on both a seasonal and diurnal basis and an energy charge which is seasonably differentiated. Additional charges may be imposed for either a leading or lagging power factor or for the taking of an unauthorized increase. A low density discount is available to qualifying utilities. The rate also includes the Exchange and Supply System Adjustment Clauses. The billing factors for computed requirements customers taking Priority Firm power have been modified to enhance BPA's revenue stability.

b. *Industrial Firm Power Rate, IP–83.* The IP–83 rate schedule applies to sales of Federal power to BPA's direct service industrial (DSI) customers. Exchange resource costs are allocated to the lower three quartiles of the DSI load. The top quartile is assigned the price associated with BPA's opportunity cost of providing top quartile service. The IP–83 rate is based on the melding of these costs. Customers requesting service to the top quartile with surplus firm energy load carrying capability (FELCC) will pay a higher rate which is based on the higher

costs associated with providing such service.

Power sales contracts with the DSI's grant BPA the right to restrict the DSI loads under certain conditions. As a result, the Federal system can use these restriction rights as part of its reserve requirement. A value of reserves analysis was performed to measure the benefit resulting from the ability to restrict the DSI load and to comply with section (7)(c)(3) of the Regional Act. The Federal system reserves provided by the DSI restriction rights are separated into forced outage reserves, stability reserves, and plant delay reserves. In determining the value of reserves provided by BPA's restriction rights, BPA looked at the most feasible, least cost alternative to providing these reserves.

To calculate the value of forced outage reserves, BPA assumed that, absent the DSI restriction rights, the least cost alternative consists of combined cycle combustion turbines. The annual cost of the turbines associated with the value of the DSI restriction rights, is estimated to be $82,918,000.

Stability reserves provided by the DSI restriction rights are valued at the cost of installing an alternative load tripping scheme which would isolate various portions of the system in lieu of restricting. The annual cost associated with the scheme is $764,000.

The Pacific Northwest Simulation Analysis Model (SAM) is used to calculate the probability of restricting the DSI's second quartile due to plant delay and the corresponding expected amount of the restriction. In lieu of restricting, BPA assumes the combined cycle combustion turbines would be run. The annual levelized cost associated with plant delay reserves provided by restricting the DSI's second quartile is $72,000.

The IP-83 rate includes a credit for the value of reserves. This credit is based on a share-the-savings concept. First, the cost of the outages to the DSI's was determined to be $126,000. Then the value to BPA of the reserves provided by the DSI's was calculated. These two figures were added and divided in half to arrive at the revenue, $41,940,000, that is credited to the DSI's for the reserves they provide. To determine the actual credit, the revenue was divided by the appropriate billing determinants. The credit is in the form of a reduction in the monthly demand and energy charges, in the same manner as in the IP-2 rate.

The industrial class has contributed significantly to BPA's revenue instability due to IP load underruns. In order to promote revenue stability, the proposed IP-83 rate includes three components: a customer charge based on operating demand, a demand charge, and an energy charge. The customer charge is set at a level sufficient to recover the difference between the total costs allocated to the lower three quartiles and the revenue which would be recovered by applying the Priority Firm rate to the billing determinants for the lower three quartiles. The remaining costs are recovered through the demand and energy charges.

As in the existing rates, the demand charges for the IP-83 rate are time differentiated on both a daily and a seasonal basis. There is no demand charge for deliveries during offpeak hours. The energy charge is seasonably differentiated. The IP-83 rate also includes an Exchange Adjustment Clause, a power factor penalty, and a charge for unauthorized increase.

c. *Special Industrial Power Rate, IH-83.* This rate schedule is available to purchasers qualifying for a special class of industrial power as provided for in section 7(d)(2) of the Regional Act. Section 7(d)(2) authorizes BPA to establish a special rate for any DSI using, as its primary resource, raw materials indigenous to the region.

The only customer that qualifies for this special industrial rate is the Hanna Nickel Smelting Company. The IH-83 rate is set equal to the PF-83 rate less the value of reserves so as to approximate the rate Hanna would have paid without the Regional Act. Like the IP-83 rate, the IH-83 rate has seasonally and diurnally time-differentiated demand charges and seasonally differentiated energy charges. The rate includes an adjustment for power factor, value of reserves, and unauthorized increase.

d. *Firm Capacity Rate, CF-83.* The CF-83 rate applies to utilities purchasing firm capacity from BPA on either an annual or seasonal basis. Annual capacity is delivered throughout the year as requested by the customer and seasonal capacity is delivered over the five month period of June 1 through October 31. Energy associated with this capacity is to be returned to BPA. CF-83 loads are served with FBS and exchange resources. The rate includes an Exchange Adjustment Clause, a Supply System Adjustment Clause, and an extended peaking surcharge for capacity taken in excess of 9 hours per day.

The extended peaking surcharge is calculated on an hourly basis and reflects the two types of FCRPS costs which BPA incurs in providing extended peaking service. The first is the cost of maintaining a sustained peak on the Federal system and the second is the value of the "return" energy which would have to be spilled in a critical water year in order to maintain minimum streamflows on the FCRPS.

e. *Emergency Capacity Rate, CE-83.* The CE-83 rate schedule is applied to capacity used either to meet emergencies on the purchaser's system or to displace non-BPA resources. BPA provides such capacity to utilities on a weekly basis provided it is requested and excess capacity is available. The energy associated with the delivery of this capacity must be returned to BPA.

To determine the CE-83 rate, the firm capacity rate for a contract year was divided by the number of weeks in a year and then increased by 30 percent to cover additional administrative and general costs. Because costs associated with deliveries over the Pacific Northwest-Pacific Southest (or Southern) Intertie have not been allocated to this service category in the COSA, such deliveries are subject to an additional charge.

f. *New Resource Rate, NR-83.* The NR-83 rate is available for the purchase of firm power for investor-owned utilities under net requirements contracts for resale, direct consumption, or for use in construction, test and start-up, and station service. It is also available for new large single loads of public bodies, cooperatives, or Federal agencies.

Exchange energy costs are allocated to this class of service to serve the small amount of energy load forecasted during the test year. However, the NR-83 rate is set to approximate a rate based on both allocated exchange capacity and energy costs so that it can be applied to any load that qualifies for NR-83 service. Thus, the energy charges for the NR-83 rate are set at a level slightly above the energy charges of the SP-83 rate to reflect the differential between allocated unit exchange energy costs for New Resource Firm and Surplus Firm service classes. The demand charges are set equal to the equalized Priority Firm demand charges and are, therefore, seasonally and diurnally time-differentiated. The NR-83 energy charges are seasonally differentiated. The NR-83 rate includes a power factor adjustment and an Exchange Adjustment Clause.

g. *Surplus Firm Power Rate, SP-83.* The SP-83 rate is available for the purchase of surplus firm power for resale or for direct consumption by purchasers other than direct-service industrial customers. SP-83 power is available for purchase inside and outside the Pacific Northwest and outside the United States. The rate

schedule includes the Exchange Adjustment Clause.

The SP-83 rate consists of four components: A Thermal Resource Rate, an Exchange Resource Rate, a Purchased Power Rate, and a Contract Rate. The four rates may be applied to contract purchases of Surplus Firm power provided the contracts are of a duration of less than one year or terminate on or before June 30, 1985. The Contract Rate may also be applied to purchases pursuant to contracts having an effective term of more than one year or terminating after June 30, 1985. The Contract Rate consists of energy and demand charges.

The Thermal Resources Rate is based on the cost of power from Federal thermal resources. It is designed to recover all BPA variable costs and up to 100 percent of the fixed costs associated with generating and transmitting power from Federal thermal resources.

The Exchange Resource Rate is based on the cost of exchange resources. The charge for SP-83 power under the Exchange Resource Rate is based on the average cost of exchange resources of one or more utilities participating in the residential exchange program, including transmission costs and losses.

The Purchased Power Rate is designed to recover the total costs of power purchased by BPA, including transmission costs and losses associated with transmitting that power.

The Contract Rate is based on the fully allocated cost of surplus resources which includes exchange resources and new resources. The SP-83 Contract Rate demand charges are set equal to the Priority Firm demand charges which causes allocated capacity costs to be included in the determination of the SP-83 energy rate. Demand charges are seasonally and diurnally differentiated while energy charges are seasonally differentiated. As escalation factor is include under the Contract Rate in order to adjust for cost increase in contracts that are in effect for more than 1 year and/or extend past June 30, 1985. The Contract Rate shall be adjusted each July 1 beginning July 1, 1985. The adjusted rate for operating year n will equal the product of: (1) The Contract Rate in year n-1, and (2) the weighted average annual rate of growth of the average cost of selected exchange resources in year n-1.

h. *Surplus Firm Energy Rate, SE-83.* The SE-83 rate is available for the purchase of Surplus Firm energy for resale or direct consumption by purchasers other than direct-service industrial purchasers. Like the Surplus Firm Power rate, the SP-83 rate is available for the purchase of Surplus Firm Energy by parties inside and outside the Pacific Northwest as well as outside the United States.

The SE-83 rate is set at the same level as the SP-83 rate assuming a 100 percent load factor. Thus, the Surplus Firm Energy rate is based on the costs of surplus exchange resources and new resources that have been allocated to the Surplus Firm Power rate. The rate include both a power factor adjustment and an Exchange Adjustment Clause.

i. *Nonfirm Energy Rate Schedule, NF-83.* NF-83 rate is available for the purchase of nonfirm energy both inside and outside the Pacific Northwest and outside the United States. The proposed NF-83 rate structure, similar to the NF-2 rate, contains rates which rates which are applicable under varying operating and marketing conditions. However, the proposed schedule contains one new rate (Displacement Rate) which is to be applied when market condition preclude BPA from selling all available energy at the spill Rate. Thus NF-83 is comprised of a Contract Rate and four rates that can be applied depending on operational conditions.

First, the Standard Rate applies when the FCRPS hydroelectric plants are not spilling or forecasted to spill due to an excess of energy on the FCRPS above available markets. This rate is based on the average cost of service with FBS and new resource power. Fifty percent of the energy sold under the Standard Rate will be made available on a guaranteed delivery basis for one day. Any energy scheduled under the guaranteed delivery provision shall be delivered except when BPA and the purchaser mutually agree to change the scheduled amounts or when BPA must reduce NF-83 deliveries to serve firm loads because of unexpected generation loss in the Pacific Northwest.

Second, the Spill Rate will be in effect when one or more FCRPS hydroelectric plants are spilling or are forecasted to spill due to an excess of energy on the FCRPS above available markets. The Spill Rate represents a reduction from the Standard Rate to reflect changes in marketing conditions.

Third, the Displacement Rate will be effective when BPA is unable to sell all available FCRPS energy as the Spill Rate. The Displacement Rate will help to ensure that BPA displaces the greatest possible amount of thermal generation and allow BPA to increase NF-83 revenues. The rate is flexible and equal to one-half of: (1) The Buy Price which is the purchaser's decremental cost of generating or acquiring power from alternative resources, plus (2) the BPA Sell Price whch is BPA's incremental cost of supplying energy during that hour. The BPA Sell Price may be no lower than 1.0 mill per kilowatt hour. Customers who are participants in the Western Systems Coordinating Council (WSCC) Energy Broker System will not purchase energy under the Displacement Rate will instead use the Broker System and the EB-83 rate.

Fourth, the NF-83 Incremental Rate shall be applied to sales of power produced or purchased concurrently with the nonfirm sale which BPA may, at its option, not produce or purchase, and when the incremental cost is greater than the Standard Rate less 2.0 mills. The rate shall be equal to the incremental cost of the power plus 2.0 mills per kilowatthour.

j. *Energy Broker Rate, EB-83.* In October 1981, BPA entered into an agreement with the Western Systems Coordinating Council (WSCC) to participate in WSCC's Energy Broker Program. The broker program offered by WSCC is a communication and scheduling procedure for matching potential sellers of electric energy with potential buyers. The proposed EB-83 rate offered by BPA is available for both the sale and purchase of nonfirm power among participants in the WSCC Energy Broker System, between whom agreements for energy transmission have been transacted. The rate is similar to the NF-83 Displacement Rate.

k. *Reserve Power Rate, RP-83.* The proposed RP-83 rate schedule is available for the purchase of:

(1) Firm power to meet a purchaser's unanticipated load growth as provided in a purchaser's power sales contract; (2) power for which BPA determines no other rate schedule is applicable; or (3) power to serve a purchaser's firm power loads in circumstances where BPA does not have a power sales contract in force with such a purchaser, and BPA determines that the rate should be applicable.

This rate schedule applies to purchasers inside and outside the United States. BPA expects that the RP-83 rate schedule will be used primarily to meet emergency power shortages on a purchaser's system and to charge, pursuant to the power sales contract, for unauthorized increases in the case of minimal power overruns.

The Reserve Power rate is based directly on the results of the TDLRIC Analysis. The proposed RP-83 rate will provide BPA's customers with price signals that reflect the cost of producing additional kilowatts and kilowatthours, regardless of BPA's revenue requirement. An adjustment for power factor and a charge for unauthorized

increase are also included in the RP-83 rate schedule.

2. *Other Rate Issues.*—a. *Scaling Factor.* A 1985 test year is used in the development of the rates. The resulting rates will provide revenues sufficient to meet BPA's test year repayment obligation. However, if these rates were applied to forecasted sales for the 8-month period extending from November 1, 1983, until the beginning of the test year, BPA would recover more revenue than required to meet the operating year (OY) 1984 repayment requirement. Consequently, BPA is applying a scaling factor to the test year rates to adjust the rates downward for the 8-month period. This scaling factor is based on costs and revenues from all of BPA's rates, both wholesale power and transmission. The factor is applied to each test year 1985 rate to yield a rate applicable to the last 8 months of OY 1984.

b. *Adjustments.* BPA has studied different forms of automatic adjustment clauses as a means of alleviating its cash flow problems and recovering sufficient revenue to cover uncontrollable expenses. In the rate proposal, BPA is including an Exchange Adjustment Clause and a Supply System Adjustment Clause in the applicable rates.

An Exchange Adjustment Clause (EAC) is included in the Priority Firm, Industrial Firm, Firm Capacity, New Resource Firm, Surplus Firm Power, and Surplus Firm Energy rate schedules. Exchange resources are assigned to loads served under these rates. The adjustment is in the form of a rebate or surcharge if the actual average cost of selected exchange resources during the period November 1, 1983, through June 30, 1985, differs from that forecast. The EAC is based on the average cost of exchange resources acquired by BPA from the five IOU's whose individual average system costs are greater than the Priority Firm rate, i.e., Pacific Power and Light, Portland General Electric, Idaho Power Company, Utah Power and Light, and C. P. National Two options are offered under the EAC: (1) Option 1 includes monthly adjustments using BPA's estimated billing process, the sum of which will be reconciled with a final adjustment using actual bills and costs, or (2) Option 2 includes one adjustment for each of two periods: November 1, 1983, through June 30, 1984, and July 1, 1984 through June 30, 1985.

A Supply System Adjustment Clause has been included in the Priority Firm and Firm Capacity rate schedules which are served by Federal base system resources. The adjustment will be made to the Priority Firm energy charges and the Firm Capacity demand charges effective July 1, 1984, if either of the following conditions occur:

(1) The actual OY 1984 Supply System net funding requirement for plants 1, 2, and 3 differ from the costs in the revenue requirement of OY 1984 and/or

(2) The OY 1985 Supply System Annual Budget for plants 1, 2, and 3 differs from the costs in the revenue requirement of OY 1985.

For each customer, the adjustment will be the product of the percentage of Supply System costs allocated to that customer class and the changes in Supply System costs of OY 1984 and 1985, divided by the class' energy or capacity billing determinants for OY 1985. No adjustment will be calculated if the change in Supply System costs for OY 1984 and OY 1985 is less than or equal to 1 percent.

c. Revenue Deficiencies From Surplus Sales. It was assumed for purposes of the rate filing that 335 average megawatts of Surplus Firm Power will be sold at the SP-83 rate out of a total surplus of 730 average megawatts. The remaining 395 average megawatts will be sold under the NF-83 rate which is less than the fully allocated cost of the surplus power. BPA is differentiating between revenue from nonfirm energy sales resulting from the presence of surplus firm resources that cannot be sold at their fully allocated cost and revenue from nonfirm energy sales resulting from average water conditions.

To calculate the revenue deficiency, BPA assumed that the power which cannot be sold at the fully allocated cost or surplus resources is sold at the average nonfirm rate. This sale results in a revenue deficiency which is allocated in the following manner:

1. The revenue deficiency is divided among new resources, exchange resources and adder (e.g., transmission, BPA overhead, rate design adjustments) pro rata based on the composition of surplus firm power costs.

2. The new resources and adder components are allocated to all firm sales.

3. The exchange resource component is allocated to the DSI's.

d. *Revenue Stability.* BPA has recently experienced a significant underrecovery of revenue from two types of customers: DSI's and computed requirements purchasers. In order to enhance revenue stability, BPA has modified both the IP-83 rate and the billing determinants for computed requirements purchasers (in both the PF-83 and NR-83 rate schedules) to reflect the costs which BPA incurs in being constantly ready to serve a specific load (the Operating Demand in the case of the DSI's and the Computed Energy Maximums in the case of computed requirements customers). Under the 1982 wholesale power rates, there is no reciprocal obligation on the part of the customer to take even a portion of the block of power which BPA must reserve for them, although DSI's must pay curtailment charges (based on BPA's demand charges and the difference between their operating level and operating demand) and computed requirements customers must pay on the greater of measured demand and a demand ratchet.

BPA has modified the rates so as to share the risks associated with the readiness to serve more equitably with the customers. In the IP-83 rate, BPA has instituted a customer charge which will enhance revenue stability. The Priority Firm rate schedule, PF-83, and New Resource rate schedule, NR-83, contain a new billing factor for computed requirements customers to reflect BPA's readiness to serve. The effect of the new billing factor will be to compensate BPA for costs incurred in being ready to meet all scheduled loads that have been forecasted under critical water planning. The implementation of the new billing factor will ameliorate the problem of revenue underrecovery due to displacement and resolve the inequity between computed requirements customers and those customers with fewer options under the power sales contract.

For customers designated by BPA to purchase energy on an actual or planned computed requirements basis, the energy billion factor will be a weighted average of the customer's monthly Computed Energy Maximum and its measured energy. The weighted factor is calculated on a seasonal basis and is based on changes in nonform revenues with and without displaced purchases compared to the actual amount of displaced BPA energy. The monthly Computed Energy Maximum is the amount of energy equal to the product of the number of hours in the month and the purchaser's Computed Average Energy Requirement, i.e., the amount by which the purchaser's actual firm energy load for the month exceeds its assured energy capability for the month. Because the seasonal weighting factor percentages are 51-49 summer and 50-50 winter, a 50-50 percentage split for the entire test period was chosen.

For customers designated by BPA to purchase energy on a contracted requirements basis, the energy billing factor will be the contract demand.

Issued in Portland, Oregon, March 18, 1983.

Peter T. Johnson

Administrator.

[FR Doc. 83-7797 Filed 3-25-83; 8:45 am]

BILLING CODE 6450-01-M

[File No. ETCA-1]

Final Interpretation of Exchange Transmission Pursuant to Amendments to Utility Power Sales Contacts

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Interpretation.

SUMMARY: The Exchange Transmission Credit Agreement (ETCA), formerly called Transmission Services Agreement, has been developed in accordance with Amendatory Agreement No. 2 to the utility power sales contracts offered by BPA on August 28, 1981. The ETCA gives BPA utility customers an opportunity to receive benefits for their transmission systems which they would have received under a Residential Purchase and Sale Agreement (Exchange Agreement) without actually entering into a purchase and sale of resources with BPA under the Exchange Agreement.

BPA offered the ETCA to its utility customers on February 22, 1983. The utilities have 60 days from that date in which to complete and return the contract in order to receive benefits of the ETCA retroactive to August 28, 1982. Utilities which do not wish to receive retroactive benefits may reply within 120 days from the date of offer. Utilities which do not reply within 120 days from the date of the current offer may request a new offer of an ETCA at a later date.

This notice of final interpretation is intended to provide public notice of Bonneville's interpretation of the intent of Amendatory Agreement No. 2 on this subject.

Responsible Official: Mr. Thomas M. Noguchi, Director, Division of Customer Service, is the official responsible for promulgation of the ETCA.

EFFECTIVE DATE: BPA offered the ETCA to its utility customers on February 22, 1983. The offer closes 120 days from that date.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212, 503-230-3478. Oregon callers may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington, 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99352, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: The Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501 (Regional Act) was enacted on December 5, 1980. It required BPA to simultaneously offer, within 9 months of the date of enactment, long-term power sales contracts to: (1) Existing public body and cooperative customers and investor-owned utility customers; (2) Federal agency customers; (3) electric utility customers participating in the residential exchange; and (4) direct-service industrial customers.

Amendatory Agreements to Power Sales Contracts

BPA offered utility power sales contracts to its customers on August 28, 1981. The customers had 1 year, until August 28, 1982, to accept the offered contacts. During this year, BPA and its customers discussed a number of issues which the customers felt remained unresolved with the offered contracts. Just prior to expiration of the deadline for filing, each of BPA's customer classes filed a lawsuit challenging BPA's contract offers. After several meetings in April 1982, agreement was reached by BPA and all customer classes on a package of proposed solutions to the outstanding contract issues, and amendatory agreements to the power sales contracts were written.

Following completion of the public involvement process and compliance with review requirements of the National Environmental Policy Act of 1969 (NEPA), final amendments were offered to the customers on August 19, 1982.

Transmission Services Agreement Stipulation in Amendatory Agreement No. 2

The ETCA has been devised in partial fulfillment of the second amendatory agreement to the power sales contracts. Amendatory Agreement No. 2 calls for BPA to establish a Tansmission Services Agreement. In the process of negotiationg this agreement with its customers, BPA has renamed the agreement, "Exchange Transmission Credit Agreement."

Exhibit C of Amendatory Agreement Number 2 stipulates that BPA will:

> At the request of Purchaser, which has not specified an amount of residential load or has specified an amount of zero under Exhibit D of the Residential Purchase and Sale Agreement (Exchange Agreement), Bonneville shall enter into a Transmission Services Agreement which shall provide benefits to such Purchaser for its transmission system which the Purchaser would have received under a Residential Purchase and Sale Agreement and the Average System Cost methodology.

The transmission services agreement was requested by BPA's preference customers and agreed upon by BPA's other customer classes. It was designed to eliminate a double counting of the preference customer residential exchange load which occurred in BPA's 1982 initial rate proposal. In that rate proposal, a preference customer residential exchange load of 510 average megawatts was counted twice, once in preference customer load requirements, and once in the exchange load. Eliminating this double counting would reduce exchange costs by $84 million, and reduce the revenue BPA must recover through its rates by $82 million. The difference was the estimated cost of transmission services agreement benefits.

Transmission Services Agreement Negotiation

In a letter from Administrator Peter T. Johnson to William Hulbert, Jr. of Snohomish County Public Utility District on June 30, 1982, BPA expressed its intention to offer the transmission services agreement referenced in Amendatory Agreement No. 2 to its utility customers by October 31, 1982.

Negotiations began in September 1982. Two meetings were held in September to negotiate the terms of the transmission services agreement, based on a draft prepared by BPA. As a result of comments received at those meetings,

BPA produced a second draft agreement, retitled Exchange Transmission Credit Agreement. This draft was dated October 15.

The October 15 draft significantly enlarged the scope of benefits a utility could receive under the agreement, to include certain nonfunded conservation costs, administrative and general costs, and research and planning costs for new generation. These changes had been recommended by representatives of publicly owned utilities.

A number of parties objected to the terms of the October 15 draft, stating that the draft granted benefits in excess of those agreed to in Amendatory Agreement negotiations. With the concurrence of all parties, BPA extended the negotiation period for the ETCA and requested comments. Twenty-one written comments were submitted.

The interested parties were unable to agree on the appropriate scope of ETCA benefits, and asked BPA to resolve the issue. In December 1982, BPA decided to restrict ETCA benefits to those a utility would receive for its transmission system costs under an Exchange Agreement, citing the commitments BPA made in the settlement agreements for PPC v. Johnson, PP&L v. Johnson, and Alcoa v. BPA, and the relative rate impacts of the two ETCA options.

In January 1983, all parties agreed to the language of the final draft based on BPA's decision. A prototype ETCA was distributed to all BPA customers and negotiation participants on January 17.

ETCA Offered

The final ETCA was offered by BPA on February 22, 1983, to those utilities which had expressed interest in it, including all utilities which had executed an Exchange Agreement but had not begun to receive benefits under the exchange. All Northwest BPA utility customers are eligible to execute an ETCA.

Under the terms of the ETCA, interested utilities may receive benefits retroactive to August 28, 1982, if they execute the ETCA within 60 days from February 22, 1983. Utilities are required to provide requested information on their average system cost within 30 days after execution of the agreement in order to receive retroactive benefits.

BPA intends to allow customers a reasonable period of time to consider BPA's offer of the ETCA. The offer will terminate 120 days from the date of the offer. Utilities which do not accept BPA's current offer may request an ETCA from BPA at a later date.

Signators to the ETCA will be required to compute their Average System Costs, according to the methodology outlined in Exhibit B to the agreement. This methodology is patterned after the Average System Cost for the Exchange Agreement. If, in the future, BPA should modify the Average System Cost Methodology for the Exchange Agreement, it would also concurrently revise the methodology for the ETCA, in consultation with the signators, as specified in Exhibit B, page 5 to the ETCA.

The general contract terms of the ETCA are contained in Appendix I of this notice.

Issued in Portland, Oreg., March 14, 1983.

James J. Jura,

Acting Administrator.

Appendix I

Contract No. DE–MS79–83BP9 , January 19, 1983

Exchange Transmission Credit Agreement Executed by the United States of America, Department of Energy, Acting By and Through the Bonneville Power Administration and

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Index to Sections

Section

1. Term of Agreement
2. Definitions
3. Reimbursement of Costs
4. Election to Equalize Rates
5. Accounting Invoice
6. Payment
7. Records, Review, and Budgeting
8. Cost Benefits
9. Termination of Agreement
10. Exhibits
11. Approval of Contract
Exhibit A (Bonneville Wholesale Power Rate Schedule and General Rate Schedule Provisions Exhibit)
Exhibit B (Average System Cost Methodology)
Exhibit C (Residential Load Definition)
Exhibit D (Load Factor Calculation)
Exhibit E (Calculation of Exchange Transmission Credit Agreement Benefits)
Exhibit F (New Large Single Loads)
Exhibit G (Provisions Required by Statute or Executive Order)

This Agreement, executed ————, by the United States of America (Government), Department of Energy, acting by and through the Bonneville Power Administration (Bonneville), and ———— (Utility), a ———— of the State of ————,

Witnesseth:

Whereas the 96th Congress of the United States of America at the Second Session enacted the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96–501, as amended (Regional Act); and

Whereas the Regional Act, among other matters, provides that a Pacific Northwest electric utility may sell electric power to Bonneville at the average system cost of the utility's resources and that Bonneville shall sell in return an equivalent amount of electric power for resale to that utility's residential and farm users within the Pacific Northwest (Region); and

Whereas the parties hereto have executed, pursuant to the Regional Act, a Residential Purchase and Sale Agreement (Residential Exchange Contract) which specifies a residential load of zero as the designation of residential load in Exhibit D attached thereto; and

Whereas the parties hereto desire to enter into a agreement which shall provide benefits to the Utility for its transmission system which the Utility would have received under a Residential Exchange Contract which specified the actual amount of the Utility's residential load; and

Whereas the Exchange Transmission Credit Agreement is the transmission services agreement that Bonneville is required to offer, at the Utility's request, under the Utility's power sales contract (Contract No. DE–MS79–81BP ; and

Whereas Bonneville is authorized pursuant to law to dispose of electric power and energy generated at various hydroelectric projects in the Pacific Northwest or acquired from other resources, to construct and operate transmission facilities, to provide transmission and other services, and to enter into related agreements to carry out such authority;

Now, therefore, the parties hereto mutually agree as follows:

1. *Term of Agreement.* This agreement shall be effective the earlier of 2400 hours on the date of execution, or for utilities which execute this agreement within 60 days of the initial offer of this agreement to any Bonneville customer, on August 28, 1982, and shall expire at 2400 hours on June 30, 1001, unless terminated pursuant to section 9 below. Notwithstanding termination or expiration of this agreement, all liabilities incurred hereunder shall continue until satisfied.

2. *Definitions.* The following definitions shall apply to this contract and Exhibits B through F.

(a) "Appendix 1" means Appendix 1 of Exhibit B of this agreement.

(b) "Average System Cost" or "ASC" means for each Jurisdiction and each Reimbursement Period the quotient obtained by dividing Contract System Costs by Contract System Load.

(c) "Bonneville Rate" means the rate determined pursuant to the Bonneville Priority Firm Power Rate Schedule contained in Exhibit A attached hereto or its successor.

(d) "Commission" means a State regulatory body, preference utility governing body, or other entity authorized to establish retail electric rates in a jurisdiction.

(e) "Contract System Costs" means the Utility's costs for production and transmission resources, including power purchases and conservation measures, which costs are includable in, jurisdictionally allocated by, and subject to the provisions of Appendix 1. Contract System Costs do not include costs required to be excluded from ASC by section 5(c)(7) of the Regional Act;

the exclusion of these costs is provided for in Footnote 15 to Appendix 1.

(f) "Contract System Load" means the firm energy load used by the Commission for the purpose of establishing retail rates, adjusted pursuant to Appendix 1.

(g) "Costs" means the aggregate dollar amount or any portion of the amount allowed or relied upon by the Commission to determine the Test Period revenue requirement for the Utility in a Jurisdiction.

(h) "Jurisdiction" means the service territory of the Utility within which a Commission has authority to approve the retail rates.

(i) "New Large Single Load" means the load defined in section 3(13) of the Regional Act, as determined by Bonneville as specified in power sales contracts with its customers.

(j) "Regional Power Sales Customer" means any entity that contracts directly with Bonneville for the purchase of power for delivery in the region as defined by section 3(14) of the Regional Act.

(k) "Reimbursement Period" means the period of time during which a Utility's Jurisdictional retail rate schedules are in effect, commencing with the effective date of these schedules and ending with the effective date of new retail rate schedules in the Jurisdiction; provided that no Reimbursement Period shall commence prior to or extend beyond the term of the Utility's Exchange Transmission Credit Agreement.

(l) "Residential Load" or "RL" means the amount of the Utility's residential and farm load as determined in Exhibit C of this agreement. Such load shall be subject to the per centum limitations specified in section 5(c)(2) of the Regional Act.

(m) "Test Period" means the time period, not to exceed 12 months, used by the Commission to determine costs for retail ratemaking.

3. *Reimbursement of Costs.*

(a) Each month during the term hereof, except as proivided in section 4, Bonneville shall reimburse the Utility for each Jurisdiction for transmission and other costs incurred by the Utility. The reimbursement of such costs shall be contingent upon the Utility's execution of the Residential Exchange Contract and shall equal the payment to which the Utility would have been entitled under the Residential Exchange Contract including any adjustments for in lieu purchases by Bonneville unless limited by Exhibit E to the benefits the Utility would have received under the Residential Exchange Contract for its transmission system costs.

(b) The amount of reimbursement to the Utility under this agreement for each Jurisdiction shall be made according to the formula specified in Exhibit E. An exception to this is that the Utility may include in both Contract System Load and Residential Load any power which it sells for the Residential Loads of another utility as agent for the other utility in accordance with an agreement with the other utility that is approved by Bonneville and terminable at will by the other utility. The amount of the Contract System Load shall be determined, and the procedures for reporting shall be the same as provided in Exhibit B of this agreement.

(c) During any Reimbursement Period when the cost benefit to the Utility as calculated pursuant to this section in accordance with the formula provided in Exhibit E results in a negative amount for any Jurisdiction, the payment from Bonneville to the Utility hereunder for such Jurisdiction shall be zero and the amount of the negative benefit shall either be accumulated in a special account pursuant to section 4 below after the Utility has elected to equalize its rates pursuant to section 4, or paid for by the Utility pursuant to section 6 below.

4. *Election to Equalize Rates.*

(a) The Utility may elect to have its ASC for any Jurisdiction deemed equal to the Bonneville Rate. Such election shall be made in writing to Bonneville within 25 working days following confirmation and approval by the Federal Energy Regulator Commission (FERC) or its successor agency, on an interim or final basis, of a change in the Bonneville Rate or following a change to Exhibit B of this contract and will take effect as of the effective date of that change. During any period that such election is in effect, Bonneville shall debit to a separate account (Account), the negative amounts calculated pursuant to Exhibit E, and shall credit to the Account any payments that Bonneville would have made. The net balance is such Account shall accumulate interest at the rate specified in Section III.E. of Exhibit B.

(b) The Utility may rescind such election and resume full participation in this agreement provided that (1) the debit balance of the Account be less than or equal to zero; or (2) the Utility makes payments to Bonneville in agreed upon installments to bring the debit balance to zero. Such rescission may be either by notice in writing effective upon delivery to Bonneville within 25 working days following confirmation and approval by FERC, on an interim or final basis, of a change in the Bonneville Rate, or by notice in writing effective on a date to be agreed upon by Bonneville and the Utility, which date shall be within 13 months following delivery to Bonneville of the notice of rescission.

(c) During the period of any such election, any portion of the costs for terminated resources associated with section 7(g) of the Regional Act included in the Bonneville Rate which would have been charged to the Utility shall be payable by the Utility by means of a surchange to the Utility's power sales contract payments pursuant to section 5(b) of the Regional Act or, if the Utility is not party to such a contract, monthly in cash as accrued. Such surcharge payments shall not exceed the total costs incurred by Bonneville during the same period and attributable to terminated resources which the Utility has sold to Bonneville and which total costs are not otherwise recovered currently through such section 7(g) allocations to any other rate or rates paid by the Utility. Such payment also shall not exceed the payments which the Utility would have made to Bonneville during each Reimbursement Period had it not made such election. Section 7(g) costs so paid shall be excluded from the separate account maintained pursuant to this section.

(d) Upon expiration of this agreement, any debit balance in the Account shall not be a cash obligation of the Utility, but shall be carried forward to apply to any subsequent reimbursement of the Utility for the Jurisdiction under any new or succeeding Exchange Transmission Credit Agreement. If the parties do not execute a new or succeeding Exchange Transmission Credit Agreement, any debit balance in the Account shall not be a cash obligation of the Utility but shall be carried forward to apply to any subsequent exchange by the Utility for the Jurisdiction under any new residential purchase and sale agreement.

5. *Accounting Invoice.* The Utility shall submit to Bonneville no more frequently than once in any 30-day period an accounting invoice with supporting documentation for the Utility's Residential Load billed during the billing period selected by the Utility. Such documentation shall include the kilowatthours of energy which the Utility billed to its Residential Load in each Jurisdiction. Invoices should be mailed to: Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208, Attn: DRK.

6. *Payment.* Within 30 days of receipt of the invoice referred to in section 5 above, Bonneville shall verify the invoice, compute the amount due pursuant to section 3 and either pay or bill the Utility for the difference.

7. *Records, Review, and Budgeting.* The Utility shall keep up-to-date records and documents showing all transactions and other arrangements made pertaining to the terms of this agreement. These records and documents shall contain information supporting the Utility's ASC as determined pursuant to exhibit B and the Utility's Residential Load. The Utility shall retain these records and documents on file for at least 5 years. At Bonneville's expense, Bonneville or its designee may, from time to time, conduct reviews or inspection of the Utility's records, accounts, and related documents pertaining to this agreement. The Utility shall fully cooperate in good faith with any such reviews or inspections.

8. *Cost Benefits.* The reimbursement to the Utility within each Jurisdiction attributable to Bonneville's assuming certain costs pursuant to section 3 shall be passed through directly to the Utility's Residential Load within such Jurisdiction.

9. *Termination of Agreement.*

(a) The Utility may terminate or suspend this agreement for a period of at least 1 year if the supplemental rate charge provided for in section 7(b)(3) of the Regional Act is applied by Bonneville and the Bonneville Rate times the Residential Load exceeds the ASC of the Utility times the Residential Load during any month.

(b) The Utility may terminate this agreement provided that (1) the Utility has executed a Residential Exchange Contract with Bonneville pursuant to section 5(c) of the Regional Act which offers to sell to Bonneville the full amount of Residential Load specified in Exhibit C hereunder; (2) the Utility has completed Appendix 1 of Exhibit C of the Residential Exchange Contract; and (3)(A) the debit balance in the Account is less than or equal to zero; or (B) the Utility makes payments to Bonneville in agreed upon installments to bring the debit balance in the

Account to zero. Such termination shall be effective on a date agreed upon by Bonneville and the Utility, which date shall be within 13 months following delivery of written notice to Bonneville of the Utility's election to terminate this agreement.

10. *Exhibits.*

Exhibits A through G are hereby made a part of this agreement. Exhibit C shall be revised to incorporate additional qualifying tariff schedules, subject to Bonneville's determination that the loads served under these schedules are qualified under section 5(c) of the Regional Act. Each time Bonneville has a new rate adjustment date, the Utility shall submit a revised Exhibit D, prepared in the same manner as Exhibit D attached hereby, to Bonneville within 20 working days of such date. The revised Exhibit D shall become effective as of such date.

11. *Approval of Contract.* If the Utility borrows from the Rural Electrification Administration or any other entity under an indenture which requires the lender's approval of contracts, this contract and any amendment thereto shall not be binding on the parties thereto if they are not approved by the Rural Electrification Administration or such other entity. The Utility shall notify Bonneville of any such entity. If approval is given, such contracts or amendment shall be effective at the time stated in such contract or amendment.

In witness whereof, the parties have executed this Agreement in several counterparts.

United States of America, Department of Energy,

By _____

Bonneville Power Administrator.

Utility:

By _____

Title _____

Date _____

Attest:

By _____

Title _____

Date _____

Exhibit A—Bonneville Wholesale Power Rate Schedule and General Rate Schedule Provisions Published in the "Federal Register" *in Its Entirety at 47 FR 38174 (August 30, 1982)*

Exhibit B—Average System Cost Methodology

I. *Summary.* This exhibit sets forth the method for computation of "average system cost" for the purpose of the Exchange Transmission Credit Agreement (ETCA). The method provides that for a Utility the average system cost (ASC) is: the costs allowed or established for retail ratemaking that are eligible for exchange divided by the kilowatthours of load assumed for retail ratemaking, adjusted consistent with this methodology. Under this method, a separate ASC will be calculated for each Utility for each Jurisdiction in which the Utility does business. Each ASC so calculated will be changed when revised retail rates go into effect.

This exhibit sets forth specific procedures for reporting cost items and recognition of those items in determining ASC, including procedures for the exclusion of particular costs as required by statute. The exhibit also sets forth the procedures for the filing of relevant data by the Utility and for the review of that data by Bonneville.

II. *Procedures for Determining Average System Cost.* The procedures set forth in this section will enable Bonneville to determine the ASC, in accord with the methodology in Appendix 1, for each Utility for each Jurisdiction within the Region where the Utility provides service. The ASC so determined will be in effect during the Reimbursement Period and will apply to the amount of Residential Load. The amount of Residential Load will be equal to the Utility's eligible load within the Jurisdiction. Bonneville will determine and pay a separate ASC for the Residential Load related to the Utility's eligible load in each Jurisdiction. The procedures are as follows:

A. Appendix 1 is a form that identifies Contract System Costs and Contract System Load and permits the calculation of ASC. Appendix 1 is an integral part of this document.

B. For each Reimbursement Period and for each regional jurisdiction in which the Utility provides service, the Utility shall complete and file with Bonneville one copy of Appendix 1 as follows:

1. (a) Not later than 30 working days after the execution date of the Utility's ETCA, the Utility shall file an Appendix 1 reflecting its existing Costs for each Jurisdiction for which it is participating in the ETCA. Subject to the provisions of Section III, the ASC determined from each Appendix 1 shall be the rate applicable to the Residential Load for that Jurisdiction during the initial Reimbursement Period; provided that if a Utility files an initial Appendix 1 after the 30-day deadline, Bonneville may make the initial ASC payable only from the date the initial Appendix was actually received. However, Bonneville shall not delay as a result of a late filing of an Appendix 1 the effective date of any change in the ASC for power provided to it under this agreement if the late filing was the result of unavoidable delay or excusable neglect, and the Utility proceeded to correct the filing error in good faith and with diligence. The Utility also will provide to Bonneville within a reasonable period of time any other information reasonably requested by Bonneville.

(b) If the Utility has executed the Exchange Transmission Credit Agreement in a manner which makes the effective date of that Agreement August 28, 1982, and Bonneville determines that an additional filing is necessary, in addition to the Appendix 1 filing requirements set forth in (a) above, the Utility will be required to file an additional Appendix 1 within 30 working days of the date of receipt of written notice from Bonneville that such additional Appendix 1 is required. Such additional filing shall reflect its existing costs for each Jurisdiction for which it is participating in this Agreement for the period August 28, 1982, to the date of execution of this Agreement. If a Utility files this Appendix 1 after the 30-day deadline set forth herein, the Utility shall not be entitled to reimbursement under this Agreement for the period from August 28, 1982, through the date of execution of this Agreement.

2. Thereafter, not later than 10 working days after the commencement of a jurisdictional rate change or otherwise commencing a rate change proceeding, the Utility shall file with Bonneville a preliminary Appendix 1, setting forth the Costs proposed by the Utility. The Utility also will provide to Bonneville within a reasonable period of time any other information reasonably requested by Bonneville. For purpose of this paragraph, a jurisdiction rate proceeding will be considered to be commenced when the Utility formally submits a rate change proposal to its Commission.

3. Not later than ten working days following the commencement date of a new Reimbursement Period, the Utility shall file with Bonneville (1) a certified copy of the formal order or resolution issued by the Commission stating that the Costs approved by the Commission are in all respects identical to those reflected on the initial Appendix 1 filed with Bonneville; or (2) a revised Appendix 1 reflecting its Costs as approved by the Commission. In addition, the Utility shall within 30 working days of a Reimbursement Period provide a reconciliation of all differences between the preliminary Appendix 1 and the revised Appendix 1. Subject to the provisions of Section III, the ASC included in the revised Appendix 1 will be the ASC applicable to the Residential Load for that Jurisdiction during the Reimbursement Period; provided, that if a Utility files a revised Appendix 1 after the 10-day deadline, Bonneville may make the new ASC payable only from the date the revised Appendix 1 was actually filed. However, Bonneville shall not delay as a result of a late filing of an Appendix 1 the effective date of any change in the ASC for power provided to it under this agreement if the late filing was the result of unavoidable delay or excusable neglect, and the Utility proceeded to correct the filing error in good faith and with diligence.

C. If Bonneville or any of its Regional Power Sales Customers have been denied the right to participate in a Jurisdictional rate review proceeding with rights equivalent to any retail customer of the Utility, no change in ASC based on a change of Costs authorized in that proceeding shall be effective until Bonneville has completed its review pursuant to Section III.

III. *Bonneville Review Process.*

A. Each Appendix 1 shall be reviewed by Bonneville or its designate to determine whether the Costs are not inconsistent with generally accepted accounting principles for electric utilities, whether Contract System Costs contains only allowed Costs, and whether the Appendix 1 complies with the requirements of this Exhibit B including applicable definitions and requirements incorporated from the FERC Uniform System of Accounts. If a retail rate change is authorized without substantive Commission findings as to Costs or if Bonneville or any of its Regional Power Sales Customers which purchase power under a Bonneville wholesale rate to which costs of this Agreement have been allocated are denied the right to participate in a Jurisdictional rate review proceeding or otherwise with rights

equivalent to any retail customer of the Utility, the review by Bonneville or its designate also may consider whether Contract System Costs have changed by the amount of the retail rate change, and Bonneville shall not be obligated to pay an ASC different than the ASC based on Contract System Costs as determined by Bonneville.

B. The Appendix described in Section II(B)(1) shall be subject to review for a period of 190 days following the date the initial Appendix 1 is submitted to Bonneville. A revised Appendix 1 described in Section II(B)(2) and (3) shall be subject to review for a period of 130 days from the start of the relevant Reimbursement Period.

C. Bonneville or its designate will conduct its review as promptly as reasonably possible, shall make a written report of its determinations, and shall make any resulting increase or decrease in the ASC for the relevant Reimbursement Period; provided, that if Bonneville has not issued a report as of the last date of the review period, then the ASC rate shown on the revised Appendix 1 described in Section II(B)(3) filed by the Utility shall be the ASC for the Reimbursement Period.

D. Bonneville will afford its Regional Power Sales Customers and other interested persons an opportunity to comment in writing on each Appendix 1 filed by a Utility. To facilitate this process, a Utility filing an Appendix 1 shall mail written notice thereof to each of Bonneville's Regional Power Sales Customers or their designates, in accordance with a list provided by Bonneville. This notice shall summarize the adjustment to costs proposed, make reference to the customers' right to comment thereon, and specify where materials relevant to the Cost adjustment process may be examined. The Utility and Bonneville shall permit Regional Power Sales Customers and interested parties to examine each Appendix 1 submitted to Bonneville. The utilities shall respond the reasonable information requests relevant to ASC from Bonneville and its Regional Power Sales Customers, provided that the furnishing of proprietary or confidential information to Bonneville or to a Regional Power Sales Customer may be made contingent on the granting of proper safeguards to prevent unauthorized use or disclosure. All comments from Bonneville's Regional Power Sales Customers and interested parties must be received in writing by Bonneville no later than 30 days prior to the end of Bonneville's review period. All such comments will be included as part of the record supporting the ASC determined by Bonneville.

E. If Bonneville determines that the ASC computed by the Utility in Appendix 1 was excessive or inadequate, the injured party shall recover the excess or deficiency with interest which shall be computed from time to time on the outstanding balance at the rate or rates of interest charged to Bonneville by the U.S. Treasury during the period unless another form of refund is ordered by a reviewing court. If a final reviewing court revises Bonneville's ASC determination, the difference between this revised ASC and the ASC determinated by Bonneville, together with the interest at the above rate, shall be paid to the party entitled thereto by the other party, unless another interest rate is so ordered.

F. If costs associated with a generating facility are included in ASC and that generating facility is later terminated prior to the date of initial commercial operation, Bonneville shall be entitled to recover revenues as follows.

For any Reimbursement Period in which Construction Work in Progress (CWIP) was included in the rate base:

1. If the CWIP included in the rate base was identified with a particular generating facility terminated prior to the date of initial commercial operation, Bonneville shall recover revenue based on the amount of CWIP identified with that terminated facility that was included in the ASC rate base.

2. If the terminated facility was among a group of facilities for which CWIP was allowed in the ASC rate base, Bonneville shall recover revenues based on the amount that the CWIP included in the ASC rate base exceeded the utility's total available jurisdictional CWIP for the same group of facilities, after exclusion of any CWIP for generating facilities subsequently terminated prior to the date of initial commercial operation.

When a generating plant is terminated prior to the date of initial commercial operation, the Utility will submit to Bonneville a calculation of the recoverable revenue attributable to the inclusion of the amount of CWIP specified above, if any, for each Reimbursement Period, including a reconciliation with the fianl Appendix 1 for that period. This caluclation shall include the effect of any inclusion of Allowance For Funds During Construction (AFUDC) as an offset to test year revenue requirement and the impact on related taxes. The interest rate on revenue to be recovered shall be calculated as in Section III. Bonneville shall bill the Utility in equal monthly installments over a period of the same length as the period during which costs of the terminated facility were included in ASC unless another arrangement is mutually agreed upon.

IV. *Change in Residental Purchase and Sale Agreement Average System Cost Methodology.* This Average System Cost (ASC) Methodology is patterned after the Average System Cost Methodology contained in Exhibit C of the Residential Purchase, and Sale Agreement. Should the process for changing the ASC Methodology for the Residential Purchase and Sale Agreement be initiated and in conformance with the provisions of that agreement result in modifications being adopted, or should the ASC Methodology be modified by FERC or a reviewing court, the parties to this agreement shall initiate a consultation process and shall incorporate necessary modifications to the ASC contained in this exhibit to ensure that payments calculated under the ASC contained in this exhibit equal the payments that would be calculated under the ASC Methodology for the Residential Purchase and Sale Agreement except in the instances where the payments under this exhibit are limited in Exhibit E to the benefits the Utility would have received under the Residential Purchase and Sale Agreement for its transmission system costs. The consultation process under this agreement shall run concurrently with the process for modifying the ASC Methodology under the Residential Purchase and Sale Agreement. Any necessary modification to the ASC contained in the exhibit shall be effective on the same date as the modification of the ASC Methodology for the Residential Purchase and Sale Agreement. Should any modification to the ASC Methodology under the Residential Purchase and Sale Agreement result in a refund or payment obligation under this agreement, by either party, such refund or payment obligation shall be implemented in the same manner as it is implemented under the Residential Purchase and Sale Agreement. The consultation process under this agreement shall be the same process as the consultant process under the Residential Purchase and Sale Agreement.

Exhibit B, Appendix 1, Instruction

Average System Cost Methodology

December 22, 1982.

Exhibit B—Appendix 1 is the form on which a Utility participating in a Exchange Transmission Credit Agreement shall report its Contract System Costs and other necessary data for the calculation of ASC.

The form consists of six schedules that shall be completed by the Utility in accord with these instructions and the provisions of the footnotes following the schedule. Any items not applicable to the Utility shall be so identified.

The schedules are as follows:

Schedule 1—Plant Investment/Rate Base/Rate-of-Return
Schedule 2—Capital Structure and Cost of Capital
Schedule 3—Expenses
Schedule 4—Income Taxes
Schedule 5—Average System Cost
Schedule 6—Total Utility and Jurisdictional Results of Operations

The filing Utility shall reference and attach workpapers that support Costs, including details of allocation and functionalization.

All references to the FERC accounts are to the FERC Uniform System of Accounts as of October 1, 1981. The Costs includable in the attached schedule are those includable by reason of the definitions in the FERC accounts. If the FERC accounts are later revised or renumbered, any changes shall be incorporated into this form by reference, except to the extent that Bonneville, upon a showing of good cause, demonstrates that a particular change results in a substantial change in the type of costs allowable for exchange purposes. If the Utility does not follow the FERC accounts, its filing must include a reconciliation between its accounts and the items allowed as Contract System Costs.

Bonneville may require the Utility to account for purchase power transaction with affiliated entities as though the affiliated entities were owned in whole or in part by the Utility, if necessary to properly determine and/or functionalize the Utility's costs.

A Utility operating in more than one Jurisdiction shall allocate its total system costs among Jurisdictions in accord with the same allocation methods and procedures used by the Commission to establish Jurisdictional Costs and resulting revenue requirements. Appendix 1 shall include details of the allocation. The allocation also accomplishes the exclusion of the Costs of additional resources to meet loads outside the region, as required by section 5(c)(7) of the Regional Act.

All schedule entries and supporting data shall be in accord with generally accepted accounting principles and practices as these principles and practices apply to the electric utility industry.

Exhibit B, Appendix 1, Schedule 1.

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items/FERC accounts/footnotes	Jurisdiction total	Excluded amount [1,6,a]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Plant Investment/Rate Base/Rate-of-Return, Jurisdiction							
1	Plant-in-Service/310-373 [1,7,8]							
2	General Plant/389-399 [8]							
3	Intangible Plant/301-303 [8]							
4	CWIP/107,120.1 [8]							
5	Acquisition Adjustment/114 [1]							
6	Total Gross Plant							
7	Less:							
8	PIS Depreciation Reserve/108 [1,8]							
9	General Plant Depreciation Reserve/108 [8]							
10	Accumulated Amortization/111, 115 [4]							
11	Total Plant Deductions							
12	Total Net Plant							
13	Plant Held for Future Use/105 [8]							
14	Nuclear Fuel/120.2-120.4 Less 120.5 [1]							
15	Accumulated Deferred Debits/184 [8]							
16	Less:							
17	Customer Advances/252 [10]							
18	Accumulated Deferred Investment Tax Credits/255 [8]							
19	Accumulated Deferred Income Taxes/281-283 [8]							
20	Other Accumulated Deferred Credits/253, 256-257 [8]							
21	Total Net Accumulated Deferred Debits/Credits							
22	Cash Working Capital/Various [8]							
23	Materials and Supplies/151-157, 163 [8]							
24	Other/106, 124, 184, Various [8,10]							
25	Total Rate Base							
26	Times Rate-of-Return ● ——% [10,11]							

Exhibit B, Appendix 1, Schedule 1A

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Jurisdiction Total	Excluded amount [1,b,a]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Rate Base Summary, Jurisdiction							
1	Utility Plant-in-Service							
2	Less: Accumulated Provision for Depreciation and Amortization							
3	Net Utility Plant-in-Service							
4	Construction Work in Progress							
5	Plant Held for Future Use							
6	Utility Plant Acquisition Adjustments							
7	Nuclear Fuel							
8	Customer Advances for Construction							
9	Materials and Supplies							
10	Cash Working Capital							
11	Unamortized Leasehold Improvements and Other Miscellaneous Deferred Items							
12	Weatherization-Interest Free Loans							
13	Extraordinary Property Losses							
14	Total Rate Base							
	Electric Plant-in-Service, Jurisdiction							
1	Intangible Plant							
	Production Plant:							
2	Steam Production Plant							
3	Nuclear Production Plant							
4	Hydraulic Production Plant							
5	Other Production Plant							
6	Total Production Plant							
7	Transmission Plant							
8	Distribution Plant							
9	General Plant							
10	Total Electric Plant-in-Service							

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT—Continued

[Average system cost methodology]

Line No.	Items	Jurisdiction Total	Excluded amount [15 b c]	Total to be function-alized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Reserve for Depreciation and Amortization of Electric Plant-In-Service, Jurisdiction							
	Depreciation Reserve							
	Production Plant:							
1	Steam Production							
2	Nuclear Production							
3	Hydraulic Production							
4	Other Production							
5	Transmission							
6	Distribution							
7	General							
8	Total Depreciation Reserve							
9	Amortization Reserve							
10	Total Depreciation and Amortization Reserve							

Note:
1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 1 will be relied upon in determining ASC.

Exhibit 8, Appendix 1, Schedule 2

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Item/footnotes	Amount	Ratio	Component cost	Weighted cost
	(1)	(2)	(3)	(4)	(5)
	Capital Structure and Cost of Capital, Jurisdiction				
1	Debt				
2	Preferred Stock				
3	Common Eqbity				
4	Deferred Income Taxes [16]				
5	Deferred Investment Tax Credit [16]				
6	Total Weighted Cost				

Exhibit B, Appendix 1, Schedule 2A

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Date of issue	Date of maturity	Interest rate	Face amount	Premium	Discount	Issue expense	Net proceeds	Interest expense
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Debt Summary,[11] Jurisdiction									

Exhibit B, Appendix 1, Schedule 2B

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Shares issued	Dividend rate	Outstanding balance	Premium	Issue expense	Net proceeds	Dividends
		(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Preferred Stock Summary, Jurisdiction							

Exhibit B, Appendix 1, Schedule 3

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items/FERC accounts footnotes	Jurisdiction total	Excluded amount [13b x]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Expenses Jurisdiction							
1	Production:							
2	Fuel/501, 518, 547 [1]							
3	Purchased Power/555 [1]							
4	Other/500, 502-517, 519-546, 548-577 [1]							
5	Transmission/560-573 [1 4]							
6	Distribution/580-598 [1 4]							
7	Customer Accounting/901-905 [18]							
8	Customer Assistance/907-910 [21]							
9	Admin. & General/920-932 [13]							
10	Total Operations & Main.							
11	Depreciation & Amortization/403-407 [1 4]							
12	Taxes Other than Federal Income/408, 409.1 [3 4 13 14]							
13	Federal Income Tax/409.1, 410.1, 411.1, 411.4 [9]							
14	Other/411.6, 411.7 [3]							
15	Less:							
16	Nonfirm Sales for Resale Rev./44 [22]							
17	Other Operating Rev./450-456 [3 23]							
18	Billing Credits [3]							
19	Total Operating Expenses							
20	Return from Schedule 1							
21	Less Subsidiary Income							
22	Total Cost [19]							

Exhibit B, Appendix 1, Schedule 3A

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Jurisdiction total	Excluded amount [13b x]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Electric Operating Expenses, Jurisdiction							
	POWER PRODUCTION EXPENSES							
	Steam Power Generation:							
1	Operation							
2	Fuel							
3	Other							
4	Maintenance							
5	Total Steam Power Generation							
	Nuclear Power Generation:							
6	Operation							
7	Fuel							
8	Other							
9	Maintenance							
10	Miscellaneous Nuclear Research							

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT—Continued

[Average system cost methodology]

Line No.	Items	Jurisdiction total	Excluded amount [1] [2]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
11	Total Nuclear Power Generation							
	Hydraulic Power Generation:							
12	Operation							
13	Maintenance							
14	Total Hydraulic Power Generation							
	Other Power Generation:							
15	Operation							
16	Maintenance							
17	Total Other Power Generation							
	Other Power Supply Expenses:							
18	Purchased Power							
19	Other							
20	Total Other Supply Expenses							
21	Total Power Production Expenses							
	TRANSMISSION EXPENSES							
22	Operation							
23	Wheeling							
24	Other							
25	Maintenance							
26	Total Distribution Expenses							
	DISTRIBUTION EXPENSES							
27	Operation							
28	Maintenance							
29	Total Distribution Expenses							
30	CUSTOMER ACCOUNTS EXPENSES							
31	CUSTOMER SERVICE AND INFORMATION EXPENSES							
	ADMINISTRATIVE AND GENERAL EXPENSES							
32	Operation							
33	Maintenance							
34	Total Administrative and General Expenses							
35	TOTAL ELECTRIC OPERATING EXPENSES							

Note:
1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

Exhibit B, Appendix 1, Schedule 3B

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Jurisdiction total	Excluded amount [1] [2]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Depreciation and Amortization Accrual, Jurisdiction							
	Depreciation:							
1	Steam Production Plant							
2	Nuclear Production Plant							
3	Hydraulic Production Plant							
4	Other Production Plant							
5	Transmission Plant							
6	Distribution Plant							
7	General Plant							
8	Total Depreciation							
9	Amortization of Limited-Term Plant							
10	Amortization of Utility Plant Acquisition Adjustments							
11	Amortization of Property Losses							
12	Total Depreciation and Amortization Accrual							

Note:
1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

Exhibit B, Appendix 1, Schedule 3C

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Jurisdiction total	Excluded amount [1,2b,c]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Texas Other Than Federal Income Taxes, Jurisdiction							
1	FEDERAL—Insurance Contributions							
2	FEDERAL—Unemployment							
	STATE							
3	California—Property							
4	California—Unemployment							
5	Oregon—Property							
6	Oregon—Tri-Met							
7	Oregon—Lane County							
8	Oregon—Unemployment							
9	Oregon—Regulatory Commission							
10	Washington—Property							
11	Washington—Unemployment							
12	Washington—Generating Tax							
13	Washington—Pollution Control Credit							
14	Idaho—Property							
15	Montana—Property							
16	Montana—Unemployment							
17	Wyoming—Property							
18	Wyoming—Unemployment							
19	Utah—Property							
20	LOCAL—Occupation and Franchise							
21	STATE INCOME TAXES							
22	IN-LIEU TAXES							
23	OTHER							
24	Total							

Note: 1. Supporting workspaces are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

Exhibit B, Appendix 1, Schedule 4

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Jurisdiction total	Excluded amount	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Income Taxes, Jurisdiction							
1	Federal Income Taxes							
2	Deferred Income Taxes							
3	Income Taxes Deferred in Prior Year							
4	Investment Tax Credit Adjustment							
5	Total Federal Taxes							

Exhibit B, Appendix 1, Schedule 4A

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Jurisdiction total	Excluded amount [1,2b,c]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Federal Taxes on Income, Jurisdiction							
	INCOME							
1	Operating Revenues							
	Deductions							
2	Operating and Maintenance Expense							
3	Depreciation Expense							
4	Amortization Expense							
5	Taxes Other Than Federal Income Taxes							
6	Interest Expense							
7	Total Deductions							
8	Net Income Before Federal Income Tax							
	TAX ADJUSTMENTS							
9	Book Depreciation							
10	Tax Depreciation							
11	Charges to Construction							
12	Coal Depletion							

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT—Continued

[Average system cost methodology]

Line No.	Items	Jurisdiction total	Excluded amount [1] [2]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
13	Other Adjustments							
	1.							
	2.							
14	Total Tax Adjustments							
15	Taxable Income							
16	Preferred Dividends Paid—Credit							
17	Total Taxable Income							
18	Federal Income Tax							
19	Less Investment Credit							
20	Net Federal Income Tax							

Note:
1. Supporting work papers are to be attached.
2. Footnotes referenced on Schedule 4 will be relied upon in determining ASC.

Exhibit B, Appendix 1, Schedule 4B

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items/FERC account	Jurisdiction total	Excluded amount [1] [2]	Total to be functionalized	Functionalization			
					Production	Transmission	Total for exchange	Other
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Other Included Items, Jurisdiction							
	Operating Revenues:							
1	Nonfirm Sale for Resale/447							
2	1.							
3	2.							
4	3.							
	Other Operating Revenues/450–456							
5	Acct. 450							
6	Acct. 451							
7	Acct. 452							
8	Acct. 453							
9	Acct. 454							
10	Acct. 455							
11	Acct. 456							
12	Total Revenues							
	Other Items:							
13	Investment Tax Credit Adjustment/411.5							
14	Deferred Current Year							
15	Restored Current Year							
16	Restored from Prior Years							
17	Total ITC Adjustment							
18	Deferred Income Tax—Current/410.1							
19	Deferred Income Tax from prior years/411.1							
20	Other Accounts							

Note:
1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 4 will be relied upon in determining ASC.

Exhibit B, Appendix 1, Schedule 5

BONNEVILLE POWER ADMINSTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Amount
	Average System Cost, Jurisdiction	
1	Contract System Costs:	
2	Production Cost (from Schedule 3)	
3	Transmission Cost (from Schedule 3)	
4	Total Contract System Costs	
5	Contract System load:	
6	Total Load (MWh)	
7	Less:	
8	Nonfirm Adjustment (MWh)	
9	Other Adjustments (MWh)	
10	Net Load (MWh)	
11	Plus:	
12	Distribution Losses (MWh) [1]	
13	Total Net Load (MWh)	
14	Least	
15	Excluded Load (MWh)	

BONNEVILLE POWER ADMINSTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT—Continued

[Average system cost methodology]

Line No.	Items	Amount
16	Excluded Load Distribution Losses (MWh)	
17	Total Contract System Load (MWh)	
18	Average System Cost (mills/kwh) (Line 4÷Line 17)	

Exhibit B, Appendix 1, Schedule 6A

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Total utility	Allocation basis [1]&	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Electric Plant-In-Service, Jurisdiction			
1	Intargible Plant			
	Production Plant:			
2	Steam Production Plant			
3	Nuclear Production Plant			
4	Hydraulic Production Plant			
5	Other Production Plant			
6	Total Production Plant			
7	Transmission Plant			
8	Distribution Plant			
9	General Plant			
10	Total Electric Plant-In-Service			

Exhibit B, Appendix 1, Schedule 6B

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Total utility	Allocation basis [1]&	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Reserve for Depreciation and Amortization of Electric Plant-In-Service, Jurisdiction			
	Depreciation Reserve			
	Production Plant:			
1	Steam Production			
2	Nuclear Production			
3	Hydraulic Production			
4	Other Production			
5	Transmission			
6	Distribution			
7	General			
8	Total Depreciation Reserve			
9	Amortization Reserve			
10	Total Depreciation and Amortization Reserve			

Exhibit B, Appendix 1, Schedule 6C

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Total utility	Allocation basis [1]&	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Rate Base Summary, Jurisdiction			
1	Utility Plant-in-Service			
2	Less: Accumulated Provision for Depreciation and Amortization			
3	Net Utility Plant-in-Service			
4	Construction work in Progress			
5	Plant Held for Future Use			
6	Utility Plant Acquisition Adjustments			
7	Nuclear Fuel			
8	Customer Advances for Construction			
9	Materials and Supplies			
10	Cash Working Capital			
11	Unamortized Leasehold Improvements and Other Miscellaneous Deferred Items			
12	Weatherization-Interest Free Loans			
13	Extraordinary Property Losses			
14	Total Rate Base			

Exhibit B, appendix 1, Schedule 6D

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Item	Total utility	Allocation basis [1a]	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Electric Operating Expenses, Jurisdiction			
	POWER PRODUCTION EXPENSES			
	Steam Power Generation:			
1	Operation			
2	Fuel			
3	Other			
4	Maintenance			
5	Total Steam Power Generation			
	Nuclear Power Generation:			
6	Operation			
7	Fuel			
8	Other			
9	Maintenance			
10	Miscellaneous Nuclear Research			
11	Total Nuclear Power Generation			
	Hydraulic Power Generation:			
12	Operation			
13	Maintenance			
14	Total Hydraulic Power Generation			
	Other Power Generation:			
15	Operation			
6	Maintenance			
17	Total Other Power Generation			
	Other Power Supply Expanses:			
18	Purchased Power			
19	Other			
20	Total Other Power Supply Expenses			
21	Total Power Production Expenses			
	TRANSMISSION EXPENSES			
22	Operation			
23	Wheelling			
24	Other			
25	Maintenance			
26	Total Distribution Expenses			
	DISTRIBUTION EXPENSES			
27	Operation			
28	Maintenance			
29	Total Distribution Expenses			
30	CUSTOMER ACCOUNTS EXPENSES			
31	CUSTOMER SERVICE AND INFORMATION EXPENSES			
	ADMINISTRATIVE AND GENERAL EXPENSES			
32	Operation			
33	Maintenance			
34	Total Administrative and General Expenses			
35	TOTAL ELECTRIC OPERATING EXPENSES			

Exhibit B, Appendix 1, Schedule 6E

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Total utility	Allocation basis [1a]	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Depreciation and Amortization Accrual, Jurisdiction			
1	Depreciation:			
2	Steam Production Plant			
3	Nuclear Production Plant			
4	Hydraulic Production Plant			
5	Other Production Plant			
6	Transmission Plant			
7	Distribution Plant			
8	General Plant			
9	Total Depreciation			
10	Amortization of Limited-Term Plant			
11	Amortization of Utility Plant Acquistion Adjustments			
12	Amortization of Property Losses			
13	Total Depreciation and Amortization Accrual			

Exhibit B, Appendix 1, Schedule 6F

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Total utility	Allocation basis [1/a]	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Taxes Other Than Federal Income Taxes, Jurisdiction			
1	FEDERAL—Insurance Contributions			
2	FEDERAL—Unemployment			
	STATE			
3	California—Property			
4	California—Unemployment			
5	Oregon—Property			
6	Oregon—Tri-Met			
7	Oregon—Lane Country			
8	Oregon—Unemployment			
9	Oregon—Regulatory Commission			
10	Oregon—Excise			
11	Washington—Property			
12	Washington—Unemployment			
13	Washington—Generating Tax			
14	Washington—Pollution Control Credit			
15	Idaho—Property			
16	Montana—Property			
17	Montana—Unemployment			
18	Wyoming—Property			
19	Wyoming—Unemployment			
20	Utah—Property			
21	LOCAL—Occupation and Franchise			
22	IN-LIEU TAXES			
23	TOTAL			

Exhibit B, Appendix 1, Schedule 6G

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items	Total utility	Allocation basis [1/a]	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Federal Taxes on Income, Jurisdiction			
	INCOME			
1	Operating Revenues			
	DEDUCTIONS			
2	Operating and Maintenance Expense			
3	Depreciation Expense			
4	Amortization Expense			
5	Taxes Other Than Federal Income Taxes			
6	Interest Expense			
7	Total Deductions			
8	Net Income Before Federal Income Tax			
	TAX ADJUSTMENTS			
9	Book Depreciation			
10	Tax Depreciation			
11	Charges to Construction			
12	Coal Depletion			
13	Other Adjustments			
	1.			
	2.			
14	Total Tax Adjustments			
15	Taxable Income			
16	Preferred Dividends Paid—Credit			
17	Total Taxable Income			
18	Gross Federal Income Tax			
19	Less Investment Credit			
20	Net Federal Income Tax			

Exhibit B, Appendix 1, Schedule 6H

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT

[Average system cost methodology]

Line No.	Items/FERC accounts	Total utility	Allocation basis [1/a]	Jurisdictional amount
	(1)	(2)	(3)	(4)
	Other Included Items, Jurisdiction			
1	Operating Revenues:			
2	Nonfirm Sale for Resale/447			
3	1.			

BONNEVILLE POWER ADMINISTRATION EXCHANGE TRANSMISSION CREDIT AGREEMENT—Continued

[Average system cost methodology]

Line No.	Items/FERC accounts (1)	Total utility (2)	Allocation basis [10] (3)	Jurisdictional amount (4)
4	2.			
5	3.			
6	Other Operating Revenues/450–456			
7	Acct. 450			
8	Acct. 451			
9	Acct. 452			
10	Acct. 453			
11	Acct. 454			
12	Acct. 455			
13	Acct. 456			
14	Total Revenues			
15	Other Items:			
16	Investment Tax Credit Adjustment/411.5			
17	Deferred Current Year			
18	Restored Current Year			
19	Restored from Prior Years			
20	Total ITC Adjustment			
21	Deferred Income Tax—Current/410.1			
22	Deferred Income Tax from prior years/411.1			
23	Other Accounts			

Exhibit B Appendix 1, Footnotes

Average System Cost Methodology Footnotes

[1] Functionalized directly from the FERC Uniform System of Accounts.

[2] Unless it can be determined that a plant item or plant-related item is associated directly with Regional generation, transmission, distribution, customer or other directly functionalized category, the item shall be functionalized on the following basis in the following order:

(a) If the location codes of the plant item can be used to identify a principal generation, transmission, distribution, or customer-related facility at that location, the plant item shall be functionalized based on the functionalization of such principal facility.

(b) For plant items not otherwise functionalized, the functionalization formula in footnote 24 shall apply.

[3] (a) The Utility shall functionalize these items according to an analysis it performs that demonstrates the actual and/or intended functional use of the items, or the plant item related thereto, and include a detailed showing of the factors used to determine the functionalization as a supplement to Exhibit B, Appendix 1. Costs incurred only because the Utility is engaged in the retail distribution of electricity shall be functionalized to "Other." These items include, for example, retail revenue taxes and uncollectible amounts for retail sales.

(b) In cases where items included are not directly assigned to a particular function, these items shall be separately identified, and a statement shall be provided as to why the items are not directly functionalized by the above 3(a) procedure. The functionalization formula described in footnote 24 herein shall apply to these items.

[4] Calculation of functionalized amount is to be consistent with property items included in functionalized Total Gross Plant.

[5] The offset against Contract System Costs for billing credit revenue arising from implementation of conservation measures and retail rate structures that induce conservation shall be limited to the costs included in Contract System Cost of the related conservation measures and retail rate structures. These billing credit revenues shall be functionalized on the same basis as the cost of the related conservation measure.

[6] Functionalization is to be directly related to the functional nature of the items included in the Working Capital calculation approved by the Commission. Should items included in the approved Working Capital calculation not be directly assignable to a function and should there be no footnote in this methodology directing the functionalization of the item, these items shall be separately identified and the functionalization formula in footnote 24 shall apply.

[7] Transmission plant means all land, conversion structures, and equipment employed at a primary source of supply (i.e., generating station or point of receipt in the case of purchased power) to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; all land, structures, lines, switching and conversion stations, high tension apparatus and their control in protection of equipment between a generating or receiving point and the entrance to a distribuation center or wholesale point; and all lines and equipment whose primary purpose is to augment, integrate, or tie together the sources of power supply. The entrance to a distribution center means all land, structures, conversion equipment, lines, line transformers, and other facilities utilized to deliver power to specific customers or distribution substations.

[8] Distribution plant means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply (i.e., generating station, or point of receipt in the case of purchased power) and of delivery to customers, which are not includable in transmission system, as defined in footnote 7, whether or not such land, structures, and facilities are operated as a part of a transmission system or as a part of a distribution system.

Note.—Stations that change electricity from transmission to distribution voltage shall be classified as distribution stations.

Where poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as transmission system. The conductors, crossarms, braces, grounds, tiewire, insulators, etc., shall be classified as transmission or distribution facilities according to the purpose for which they are used.

Where underground conduit contains both transmission and distribution conductors, the underground conduit and right-of-way shall be classified as distribution facilities. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used.

Land (other than rights-of-way) and structures used jointly for transmission and distribution purposes shall be classified as transmission or distribution according to their major use.

[9] Functionalized as specified in Schedule 4.

[10] If These items are treated in schedule 1 as deductions from gross plant investment in determining rate base, these items shall not be included in the capital structure.

[11] Should a Commission approve a method for determining debt costs by a means other than that shown here, Sechedule 2A shall be modified in a manner that shows the approved method, including accompanying explanatory material.

[12] Expenses related to the FERC Accounts 920–932 shall be functionalized in accord with the following:

FERC Account and Functionalization Method

920—Footnote 3	926—Footnote 13	930.1—Footnote 19
921—Footnote 3	927—Footnote 19	930.2—Footnote 3
922—Footnote 3	928—Footnote 19	931—Footnote 3
924—Footnote 3(a) or 24(a)	929—Footnote 3	932—Footnote 4
925—Footnote 3		

[13] Functionalization is to be determined on a pro rata percentage basis using the salary and wage data for production, transmission, and distribution/other functions included in the Test Period costs on which Appendix 1 is based. If, however, this information is unavailable, comparable data shall be used for the most recent calendar year as reported on the FERC Form 1 (at page 355), or similar document. Furthermore, a portion of this expense shall be included in Schedule 3, column 3, Excluded Amount, based on the amont of labor-related costs included therein.

[14] A tax-exempt Utility may include in-lieu taxes up to an amount that is comparable, for each unit of government paid in-lieu taxes, with taxes that would have been paid by a nontax exempt Utility to that unit of government, but in no event shall the jurisdictional total in column 2 be greater than the actual amount paid.

[15] Excluded resources:

(a) The cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after December 5, 1980, will be determined by utilizing allocation notes of multi-State utilities as assigned and utilized in State retail rate filings.

(b) The cost of additional resources sufficient to serve any New Large Single Load that was not contracted for, or committed to prior to September 1, 1979, is to be determined as follows:

(1) To the extent that any New Large Single Loads are served by dedicated resources, at the cost of those resources, including applicable transmission.

(2) In the amount that New Large Single Loads are not served by dedicated resources, at Bonneville's New Resource rate as established from time-to-time pursuant to section 7(f) of the Regional Act and as applicable to the Utility, and applicable Bonneville transmission charges if transmission costs are excluded in the determination Bonneville's New Resource rates, to the extent such costs are recovered by the Utility's retail rates in the applicable Jurisidiction; and

(3) To the extent that New Large Single Loads are not served by dedicated resources plus the Utility's purchases at the New Resource rate, the costs of such excess load shall be determined by mutiplying the kilowatthours not served under subsections (1) and (2) above by the cost (annual fixed plus variable cost, including an appropriate portion general plant, administrative and general expense and other items not directly assignable) per kilowatthour of all baseload resources and long-term power purcases (5 years or more in duration), as allowed in the regulatory Jurisdiction to establish retail rates during the Reimbursement Period, exclusive of the following resources and purchases: (a) purchases at the New Resources rate pursuant to section 7(f) of the Act; (b) purchases at the Federal Base System rate, pursuant to section 5(c) of the Act; (c) resources sold to Bonneville, pursuant to section 6(c)(1) of the Act; (d) dedicated resources specified in footnote 15(b)(1) of this agreement; (e) resources and purchases committed to the Utility's load as of September 1, 1979, under a power requirements contract or that would have been so committed had the Utility entered into such a contract; and (f) experimental or demonstration units or purchases therefrom. Transmission needed to carry power from such generation resources or power purchases shall be priced at the average cost of transmission for the Jurisdiction during the Reimbursement Period.

(4) Any kilowatthours of New Large Single Loads not met under subsection (1), (2), or (3) above will be assumed to be supplied from the most recently completed or acquired baseload resource(s) or long-term power purchase(s), exclusive of dedicated resources and experimental or demonstration resources or purchases therefrom, that are committed to the Utility's load as of September 1, 1979, under a power requirements contract with Bonneville or would have been so committed had the Utility entered into such a power requirements contract. The cost of these generation resources and long-term power purchases and the transmission cost associated with these resources or purchases will be calculated as specified in subsection (3) above.

(5) If the New Large Single Load is served on an energy or capacity interruptible basis, the Utility shall prepare a calculation subject to review by Bonneville of the fixed (if any) and variable costs of providing such service, except that the amount excluded from ASC for the New Large Single Load shall not be less than the transmission and generation costs included in the retail rate charged the New Large Single Load.

(c) Any costs associated with a generation facility that is terminated prior to initial commercial operation shall be excluded if termination occurred after December 5, 1980.

[16] Authorized Jurisdictional rate of return as specified in Schedule 2.

[17] The losses shall be the distribution energy losses occurring between the transmission portion of the Utility's system and the meters measuring firm energy load used by the Commission for the purpose of establishing retail rates. Losses shall be established according to a study (engineering, statistical, or other) that is submitted to Bonneville by the exchanging Utility subject to review by Bonneville. This study shall be in sufficient detail so as to accurately identify average distribution losses associated with the Utility's total load, excluded loads, and the Residential Load. Distribution losses shall include losses associated with distribution substations, primary distribution facilities, distribution transformers, secondary distribution facilities, and service drops.

[18] This amount is to be reduced by revenues from firm sales for resale (to the extent that these sales are included in the Jurisdictional allocation factors) to be determined by the firm resale revenue for the Test Period as used for retail ratemaking purposes.

[19] Functionalize entirely to distribution/other unless Utility demonstrates that other functionalization treatment is appropriate.

[20] "Other" rate base items may include Unclassified Plant-In-Servie (106), Extraordinary Property Losses (182), Other Investments (124), or other investments approved for rate base treatment by a Commission consistent with the provisions of this Exhibit.

[21] Only the conservation-related portion is to be functionalized to production.

[22] These revenues shall be divided proportionally between "Excluded Amount" and "Total To Be Functionalized" based on the total expenses in those two categories shown on Schedule 3 (sum of lines 1 to 13, 19, and 20), less all terminated plant expenses excluded pursuant to footnote 15(c). The portion to be functionalized shall be functionalized to production.

[23] Public Agencies shall be allowed a total return (operating income) on Schedule 1, line 26, column 2, equal to their demonstrated need for revenues exceeding "Total Operating Expenses" shown on Schedule 3 to cover the cost of capital. These demonstrated capital costs generally will be in the form of coverage requirements or the need to maintain an equity ratio consistent with favorable bond ratings for that Utility. In order to receive an operating income in addition to interest expense, the Utility must submit evidence of the specific coverage or equity ratio needed by that Utility and a calculation of the corresponding minimum operating income. Assignment to excluded resources and functionalization of the operating income shall be based on the assignment and functionalization of the rate base.

[24] Functionalization of these items shall be based on a formula that averages on an equal weighting basis the percentages for generation, transmission, distribution, and customer-related functions for (a) the gross plant in each function, including general plant and other plant items functionalized in step 1 of footnote 2; and (b) the functionalized operations and maintenance (O&M) expenses shown in Schedule 3, except that the expenses of power purchased from Bonneville under sections 5(b)(1) and 5(c)(1) of the Regional Act shall not be included and the fuel cost included in O&M shall not include the cost of fuel acquired from non-Utility sources. Material detailing the application of this functionalization formula shall be included as a supplement to Appendix 1.

[25] Revenues from the transmission of electricity for others shall be functionalized to transmission.

Exhibit C, Residential Load Definition

I. The Utility's residential Load means the sum of the Regional loads the Utility elects to use as a basis for the exchange under the tariff schedules described below adjusted for distribution losses as determined pursuant to exhibit B, as the same may be amended, supplemented, or superseded. If Bonneville determines that any such action changes the Utility's general tariffs or service schedules in a manner which would allow loads other than residential loads, as defined in the Regional Act, to be included under these tariff schedules, such nonresidential loads shall, from the date the Utility is notified of Bonneville's determination, be excluded from the reimbursement of costs transaction hereunder.

Such tariff schedules, as presently effective include:

A. All schedules listed below, the following designated percentages, or ——kilowatthours of the load supplied by the Utility under:

B. A portion of the load as determined pursuant to section II below supplied by the Utility under:

II. Any farm's monthly irrigation and pumping load qualifying hereunder for each billing period shall not exceed the amount of the energy determined by the following formula:

400 × 0.746 × days in billing period × 24, *provided, however,* that this amount shall not exceed that farm's measured energy for the same billing period.

where:

400 is equal to the horsepower limit defined in the Regional Act, 0.746 is the factor for converting horsepower to kW, days in billing period is determined in accordance with prudent and normal utility business practices, and 24 is the number of hours in a day.

III. When more than one farm is supplied from a common pumping installation, the irrigation and pumping load of the installation shall be allocated among the farms using the installation, based on the method (e.g., water shares, acreage) that the farms use to allocate the power costs among themselves. These allocated loads shall then be combined with any other irrigation and pumping loads attributed to the farms under section II above. In no instance shall any farm's total qualifying irrigation loads for any billing month exceed 222,000 kWh.

IV. For purposes of this contract, a farm is defined as a parcel or parcels of land owned or leased by one or more persons (person includes partnerships, corporations, or any legal entity capable of owning farm land) that is used primarily for agriculture. Agriculture is defined to include the raising and incidental primary processing of corps, pasturage, or livestock. Incidental primary processing means those activities necessarily undertaken to prepare agricultural products for safe and efficient storage or shipment. All electrical loads ordinarily associated with agriculture as defined above shall be considered as usual farm use.

Contiguous parcels of land under single-ownership or leasehold shall be considered to be one farm and noncontiguous parcels of land under single-ownership or leasehold shall be considered as one farm unit when operated as a single farm, unless demonstrated otherwise by the owner or lessee of the parcels.

A number of factors shall determine whether contiguous or noncontiguous parcels constitute one or more farms. These factors shall include but are not limited to:

—Size
—Use
—Ownership
—Control
—Operating practices
—Distance between parcels
—Custom in the trade
—Billing treatment by the utility

V. Unused irrigation allocations may not be reallocated to other farms or to another billing period.

VI. The operator of a farm may be required to certify to the Utility all irrigation accounts, including horsepower rating, with the Utility for that farm, including all irrigation accounts commonly shared.

Exhibit D—Load Factor Calculation

Using data from the 60 months prior to the last Bonneville rate filing, the monthly Load Factor of the Utility shall be averaged over each period in Bonneville's demand charge according to the formula below. The seasonal period is all months of the year that have the same demand charge in Exhibit A.

$$\text{Load factor} = \frac{E}{D} \times \frac{N}{H} \text{ for each month}$$

where:

E = the sum of monthly energy loads in the seasonal periods the Utility filed with the FERC or other appropriate body for the previous five years.

D = the sum of monthly peak demands in the seasonal periods the Utility filed with the FERC or other appropriate body for the previous five years.

N = the number of months in the seasonal period.

H = the sum of hours in the month for all months in the seasonal period.

If the Utility acts as an agent for another utility (Principal Utility) the Load Factor for the portion of the purchase equal to the Residential Load of the Principal Utility shall be determined based on the Principal Utility's own load data.

If Bonneville commences billing the majority of its public agency customers on a basis of other than monthly noncoincidental demand, the Utility's Load Factor shall be computed from the 60 month historic data using a basis comparable to the billing criteria applied to the majority of public agencies.

The historic data used for Load Factor computation shall not be adjusted for normal temperature or streamflow. The historic data used for Load Factor computations shall not include surplus or special sales. The Utility shall provide, at Bonneville's request, the necessary information regarding the incidence and timing of such sales.

Exhibit E—Calculation of Exchange Transmission Credit Agreement Benefits

The amount of reimbursement for each Jurisdiction shall equal the lesser of 1 or 2 below.

$$1.\ \text{ASC} = \frac{\text{Contract System Costs}}{\text{Contract System Load}} = \frac{\text{Production Cost [from Sch 5]} + \text{Transmission Cost [from Sch 5]}}{\text{Total load—Non-Firm and Other Adjustments} + \text{Distribution Losses—Excluded Load and Excluded Load Distribution Losses}}$$

Reimbursement = ASC × RL (kWh) − Bonneville Rate × RL (kWh + kW).[1]

[1] Calculated using the Load Factor computed pursuant to Exhibit D.

$$2.\ \text{TB} = \frac{\text{Contract System Costs for Transmission}}{\text{Contract System Load}} = \frac{\text{Transmission Cost [from Sch. 5]}}{\text{Total load—Non-firm and Other Adjustments} + \text{Distribution Losses—Excluded Load and Excluded Load Distribution Losses}}$$

Reimbursement = TB × RL (kWh).

Where:

TB means benefits the Utility would have received under the Residential Exchange Contract for its transmission system costs.

Exhibit F—New Large Single Loads: Published in the **"Federal Register"** *in its entirety at 46 FR 44340 (September 3, 1981)*

Exhibit G—Provisions Required by Statute or Executive Order (General Contract Provisions): Published in the **"Federal Register"** *in its entirety at 46 FR 44240 (September 3, 1981)*

[FR Doc. 83-7517 Filed 3-25-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-384-000]

Central Hudson Gas & Electric Corp.; Filing

March 23, 1983.

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson), on March 15, 1983, tendered for filing as a supplement to its Rate Schedule F.P.C. No. 22 a letter of agreement and notification dated January 25, 1983 between Central Hudson and New York State Electric & Gas Corporation. Central Hudson states that this letter provides for a decrease in the monthly facilities from $7,482.00 to $7,282.25 in accordance with Article IV.1 of its Rate Schedule F.P.C. No. 22, an increase in the monthly transmission charge from $4,227.61 to $4,431.73 in accordance with Articles V. and VI. of its Rate Schedule FPC No. 22 and an increase in the annual operation and maintenance charge from $2,568.47 to $2,825.32 in accordance with Article IV.2 of its Rate Schedule F.P.C. No. 22.

Central Hudson requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the New York State Electric & Gas Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 8, 1983. 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. 83-7898 Filed 3-25-83; 8:45 am]

BILLING CODE 6710-01-M

[Project No. 4634-001]

The City of Billings, Montana; Dismissing Request To Surrender Preliminary Permit

March 23, 1983.

Take notice that the City of Billings, Montana, Permittee for the proposed Hydroelectric Project No. 4634, has requested that its preliminary permit be terminated. The permit was issued on July 13, 1981. The project would have been located on the Musselshell River in Billings, Montana.

The Permittee filed its request on February 10, 1983. On February 22, 1983, the Commission granted the State of Montana's appeal regarding the issuance of the preliminary permit. In so doing, the Commission rescinded the preliminary permit and dismissed the City's application. 25 FERC ¶ 61,191. Inasmuch as no permit has been issued to the City, the need to act on the surrender of the preliminary permit for Project No. 4634 is deemed moot. Thus, the request to surrender the permit is dismissed.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7899 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-504-004 and ER81-504-005]

Delmarva Power & Light Co.; Refund Report

March 23, 1983.

Take notice that on March 16, 1983, Delmarva Power & Light Company submitted for filing a refund report pursuant to the Commission's letter order dated February 2, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 11, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7900 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA83-2-33-000]

El Paso Natural Gas Co.; Proposed Change in Rates Pursuant To Purchased Gas Cost Adjustments

March 23, 1983.

Take notice that on March 1, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rate for jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, Original Volume No. 1, which Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

El Paso states that the net change in its currently effective rates attributable to the PGA is an increase of 2.93¢ per Mcf. To implement the instant notice of change in rates, El Paso tendered for filing the following revised tariff sheets, designated "TA83-2-33 Tariff Sheets," to its FERC Gas Tariff:

Tariff volume	Tariff sheet
Original Volume No. 1	First Substitute Thirty-third Revised Sheet No. 3-B, Seventh Revised Sheet No. 159.
Third Revised Volume No. 2.	First Substitute Twenty-fourth Revised Sheet No. 1-D.
Original Volume No. 2A	First Substitute Twenty-fifth Revised Sheet No. 1-C.

In recognition of an agreement in principle achieved by the participants in settlement conferences held February 22 and 23, 1983 in El Paso's general rate proceedings at Docket No RP83-6, *et al.*, El Paso states that it has decided to forego, at least for the time being, implementing the December 23, 1981 decision of the United States Court of Appeals for the Fifth Circuit in *Mid-Louisiana Gas Company v. FERC*, 664 F. 2d 530, hereinafter referred to as "*Mid-Louisiana*." Therefore, in adddition to the above designated tariff sheets, El Paso also tendered, for filing and acceptance pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations, certain substitute revised tariff sheets, delineated below, which restate the purchase gas cost portion of El Paso's sales rates effective September

1, 1982 and October 1, 1982 at Docket Nos. TA82-2-33 and TA83-1-33, respectively, to reflect reversal of El Paso's implementation therein of *Mid-Louisiana*.

To implement *Mid-Louisiana* in its previous semiannual notices of rate change at Docket Nos. TA82-2-33 and TA83-1-33, El Paso removed from its base tariff rates that portion of the costs attributable to certain of its pipeline production previously treated for ratemaking purposes on a cost-of-service basis. To reverse implementation of *Mid-Louisiana*, El Paso has reinstated the amount previously removed from its base rates for gas well royalties and production taxes and other produced gas costs, and made a corresponding reduction in the purchased gas cost adjustments. El Paso states that effectuation of its decision to reverse its prior implementation of *Mid-Louisiana* will not result in a change in El Paso's effective September 1, 1982 and October 1, 1982 sales rates but will only restate the portion thereof attributable to purchased gas costs.

To reverse implementation of *Mid-Louisiana* in Docket No. TA82-2-33, El Paso tendered the following substitute revised tariff sheets, designated "TA82-2-33 Tariff Sheets," to its FERC Gas Tariff:

Tariff volume	Tariff sheet
Original Volume No. 1	Second Substitute Thirty-second Revised Sheet No. 3-B.
Third Revised Volume No. 2.	Second Substitute Twenty-third Revised Sheet No. 1-D.
Original Volume No. 2A	Second Substitute Twenty-fourth Revised Sheet No. 1-C.

To reverse implementation of *Mid-Louisiana* in Docket No. TA83-1-33, El Paso tendered the following substitute revised tariff sheets, designated "TA83-1-33 Tariff Sheets," to its FERC Gas Tariff:

Tariff volume	Tariff sheet
Original Volume No. 1	Substitute Thirty-third Revised Sheet No. 3-B.
Third Revised Volume No. 2.	Substitute Twenty-fourth Revised Sheet No. 1-D.
Original Volume No. 2A	Substitute Twenty-fifth Revised Sheet No. 1-C.

El Paso requests that the Commission grant such waiver of its applicable rules, regulations and orders as may be necessary to permit the tendered "TA82-2-33 Tariff Sheets" to be substituted for their respective counterparts filed December 8, 1982 at Docket No. TA82-2-33, effective September 1, 1982; the tendered "TA83-1-33 Tariff Sheets" to be substituted for their respective counterparts filed October 29, 1982 at Docket No. TA83-1-33, effective October 1, 1982; and the tendered "TA83-2-33 Tariff Sheets" to become effective on April 1, 1983.

El Paso states that copies of the instant filing, together with all enclosures, have been served upon all parties of record in Docket Nos. TA82-2-33-000 and TA83-1-33-000 and, otherwise, upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make a protest with reference to said tariff filing should, on or before March 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-7901 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-383-000]

GPU Service Corp.; Filing

March 23, 1983.

Take notice that on March 14, 1983, the GPU Service Corporation (GPU) tendered for filing a letter agreement, dated March 10, 1983, betweeen GPU as agent for Pennsylvania Electric Company (Pennsylvania) and Philadelphia Electric Company (Philadelphia). GPU states that under the agreement Pennsylvania will provide scheduled transmission service for Philadelphia on a weekly basis utilizing its transmission facilities.

GPU requests an effective date of March 14, 1983, and therefore requests 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 April 8, 1983. 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. 83-7902 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-16-000]

Texas Railroad Commission, Section 108 NGPA Determination, Phillips Petroleum Company, West B #1 Well, FERC J. D. No. 82-09635; Petition To Reopen and Vacate Final Well Category Determination and Request To Withdraw

Issued: March 23, 1983.

On February 2, 1983, Phillips Petroleum Company (Phillips) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a determination that gas from the West B #1 Well, located in the W. Watson Survey, Wise County, Texas, qualifies as stripper natural gas pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1982). This determination made by the Texas Railroad Commission (TRRC) became final on January 17, 1982, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

Phillips requests reopening of this final determination so that it can withdraw its application for said determination as a result of the TRRC's erroneous decision to process Phillips' application as a normal application pursuant to § 274.206 for a stripper well determination rather than under the deferred determination procedure allowed under §271.807(b)(1)(ii) of the Commission's regulations,[1] as intended by Phillips.

[1] The deferred determination procedures provide alternative methods to determine a well's maximum efficient rate of flow during the qualifying 90-day production period. One of the methods enables an applicant for a stripper well determination to file an application with a jurisdictional agency when a well has produced an average of 60 Mcf per production day or less for the 90-day period but has produced between 60 to 70 Mcf per production day for the 12-month period. The jurisdictional agency will establish a 12-month period during which the applicant may secure the data to establish that the well produced gas at an average rate not in excess of 60 Mcf per production day. The applicant has 90 days after the close of such 12-month period to give proof of the requisite qualifying data, at which time the jurisdictional agency will make an affirmative determination. *See* § 271.807(c).

Phillips states that the application for a deferred determination for the subject well was based on the ninety day production period from May 1, 1981 through July 31, 1981, during which time the well's average production was 56.77 Mcf per day. The twelve month production period which ended concurrently with the ninety day period established that the subject well produced natural gas at an average rate of more than 60 Mcf but less than 70 Mcf per production day. The TRRC processed Phillips application as though it was a usual stripper well application, and forwarded its affirmative section 108 determination for the West B #1 Well to the Commission. The Commission relied on the TRRC's findings, and did not reverse or remand the determination. Thereafter the jurisdictional agency's decision became final. Phillips further states that the production figures reveal that this well did not qualify as a stripper well at the time of the application, and that had the deferred determination procedure been properly applied, this well would not have qualified, and the TRRC would not have prematurely forwarded to the Commission an affirmative section 108 determination for the West B #1 Well.

Phillips states that it sells gas from the subject well to Cities Service Company (Cities) under a percentage-of-proceeds type contract. Phillips avers it will prepare a refund report for all collections made at the NGPA section 108 rate from Cities for sales from the subject well, and such report will be forwarded to Cities and the Commission. Notwithstanding these assertions, the Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(c) of the Commission's regulations, will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7903 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 83-372-000]

Vermont Yankee Nuclear Power Corp; Filing

March 23, 1983.

Take notice that on March 8, 1983, Vermont Yankee Nuclear Power Corporation (Vermont Yankee) tendered for filing a supplement to Vermont Yankee's Rate Schedule FPC No. 1. Vermont Yankee proposes to reduce the aggregate billings to its owners for the billings periods of February and March, 1983 by $6,894 and $13,173, respectively.

Vermont Yankee requests that the Commission waive its notice requirement and establish an effective date of March 18, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 5, 1983. 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 intevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7904 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC 83-12-000]

Virginia Electric and Power Co.; Application

March 23, 1983.

Take notice that on March 11, 1983, Virginia Electric and Power Company (VEPCO) (Applicant) filed an application pursuant to section 203 of the Federal Power Act with the Federal Energy Regulatory Commission for authorization to sell certain transmission facilities associated with the North Anna Nuclear Power Station. The consideration that will be paid for these transmission facilities is $1,149,446 (based upon book cost depreciated). These facilities are being sold as part of an arrangement by which Old Dominion Electric Cooperative (ODEC) will purchase an undivided interest in the facilities at the North Anna Nuclear Power Station. No new transmission facilities will be constructed pursuant to the proposed arrangement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 18, 1983. 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. 83-7905 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-2331-5]

Motor Vehicle Emission Factors

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop which the Environmental Protection Agency will hold regarding possible revisions to the Agency's motor vehicle emission factors and the computer program MOBILE2 used a calculate composite emission factors for vehicle fleets. These emission factors are used by States in preparing State Implementation Plan revisions and by others engaged in determining the air quality impact of motor vehicles. The Agency's purpose in holding this workshop is to meet with those parties potentially possessing information which would be of use in revising the emission factors and to allow all interested parties to participate informally in the revision process.

DATE: The workshop is being held on Thursday, April 7, 1983 at 8:30 a.m.

ADDRESS: The workshop will be held at EPA's Motor Vehicle Emissions

Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Lois Platte (313) 668-4306, Phil Lorang (313) 668-4374, or Tom Darlington (313) 668-4313, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

SUPPLEMENTARY INFORMATION: EPA's current estimates of emission factors for motor vehicles are contained in the report "Compilation of Air Pollutant Emission Factors: Highway Mobile Sources," March 1981 (EPA-460/3-81-005). The emission factors and the arithmetical procedures for combining them into an estimate of the composite emission factors for a motor vehicle fleet have been automated in the computer program MOBILE2. The report and computer program were developed in 1980, and EPA perceives that in the intervening period enough additional information has become available to warrant consideration of revisions to both.

Although EPA is not required to invite public participation during the revision of the motor emission factors, EPA believes a series of public workshops will facilitate EPA's revision process by enabling EPA to receive valuable technical information in a timely fashion and to receive suggestions from those parties who may otherwise be interested in the revision process and its outcome.

The workshop announced here is the third of a series. At this third workshop, EPA and other participants plan to discuss several issues related to the previous workshop. The previous workshop attempted to identify all of the issues which could be addressed in a revision to MOBILE2. Some of the issues were more important than others, and some could not be addressed by either current or planned testing because of resource problems. In the third workshop, EPA will identify the specific revisions which are feasible for EPA to accomplish given the priorities and resource needs of those revisions. Also, presentations and discussions will be held on the topics of 1981 and later emission factors, high altitude emission factors, lead emission factors, cold temperature correction factors, heavy-duty vehicle fuel economy, and the status of planned heavy-duty engine testing. Suggestions for additional topics should be made in advance of the workshop. Because of the technical nature of the agenda, participants should be familiar with the existing emissions factors and MOBILE2 to most fully contribute to the discussions.

This workshop will not discuss the programming aspects of the MOBILE2 computer program, such as its interface with other programs used in preparing emission inventories and air quality plans, and the language and equipment requirements of the program. A workshop may be scheduled at a later date to meet with parties interested in these areas in particular.

No rulemaking action is anticipated in connection with the revisions that will be the subject of this workshop. Consequently, the workshop will be very informal. There will be no opportunity for prepared statements in general, although prepared remarks will be welcome on specific issues as those are brought up for discussion. Although no public docket will be kept, written submissions are welcome at any time and may be brought to the workshop or mailed to Lois Platte, Phil Lorang, or Tom Darlington at the address set out about.

The Agency in addition requests that all persons planning to attend the workshop contact Lois Platte, Phil Lorang or Tom Darlington.

Dated: March 21,1983.

Charles L. Elkins,

Acting Assistant Administrator, Office of Air, Noise and Radiation.

[FR Doc. 83-7839 Filed 3-25-83; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL 2331-4]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on April 26, 27, and 28, 1983, at the Royal Villa Hotel, Royal King Hall I, 6339 Glenwood Avenue, Raleigh, North Carolina 27612. The commercial telephone number is (919) 782-4433.

The tentative agenda for the meeting is as follows:

April 26 (Tuesday)—8:30 a.m.

Polymers and Resins, New Source Performance Standard (Section 111 of the Clean Air Act).

Wool Fiberglass Insulation Manufacturing, New Source Performance Standard (Section 111 of the Clean Air Act).

Grain Elevator Industry, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act).

Primary Copper Smelters, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act).

April 27 (Wednesday)—8:30 a.m.

Continuation of April 26—As Required.

Kraft Pulp Mills, Revision of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act).

Refinery Sulfur Plants, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act).

Inorganic Arsenic, Status Report on Development of National Emission Standards for Hazardous Air Pollutants (Section 112 of the Clean Air Act).

April 28 (Thursday)—8:30 a.m.

Continuation of April 27—As Required.

All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by April 7, 1983. The commercial telephone number is (919) 541-5571, and the FTS number is 629-5571.

The dockets containing material relevant to polymers and resins (A-82-19), wool fiberglass insulation manufacturing (A-80-27), grain elevator industry (A-83-14), primary copper smelters (A-81-42), kraft pulp mills (A-82-36), and refinery sulfur plants (A-83-16) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on wekdays, and a reasonable fee may be charged for copying.

Dated: March 18, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83-7841 Filed 3-25-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51436D; TSH-FRL 2332-3]

Sulfophenylazonaphthyl Dyes; Premanufacture Notice Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notices (PMN) for the two substances, PMN's-83-35 and 83-38,

under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on June 22, 1983. The PMN substances will be imported for use as dyes for leathers and paper.

FOR FURTHER INFORMATION CONTACT: June Thompson, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460; (202-382-3737).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On October 13, 1982, EPA received a consolidated PMN for two sulfophenylazonaphthyl dyes, PMN's-83-35 and 83-38 which are to be imported into the United States. The submitter claimed its identity, the specific chemical identity and the import volume to be confidential business information. Notice of receipt of the PMN's was published in the **Federal Register** of October 22, 1982 (47 FR 47066). Including voluntary suspensions of the period, the original 90-day review period, including voluntary suspensions by the submitter, was scheduled to expire on March 24, 1983.

EPA's detailed analysis of the substances described in PMN's-83-35 and 83-38 addressed the following: effects on human health, metabolism, human exposure, degree of risk relative to available commercial substitutes, potential marketability, and the identification of other information which may be required to resolve outstanding issues.

As a result of this analysis, EPA has reason to believe the following:

1. Human exposure to the PMN substances and their reduction products may result in carcinogenicity.

2. Workers in paper mills and tanneries may be exposed to the PMN substances.

Based on this analysis, EPA finds that there is a possibility that the substances submitted for review in PMN's-83-35 and 83-38 may be regulated under section 5(e) of TSCA. The Agency requires an extension of the review period to further investigate potential health effects and use conditions, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. An administrative order under section 5(e) must be issued no later than 45 days prior to expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review periods for an additional 90 days, to June 22, 1983.

PMN's-83-35 and 83-38 are available for public inspection in Rm. E-107 at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: March 18, 1983.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-7842 Filed 3-25-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Digital Paging Systems, Inc., et al.; Hearing

Memorandum Opinion and Order

Adopted: March 11, 1983.

Released: March 21, 1982.

In re applications of: Digital Paging Systems, Inc.; CC Docket No. 83-219, File No. 50086-CM-P-74 and Microband Corporation of America; CC Docket No. 83-220, File No. 50005-CM-P-75; for construction permits in the Multipoint Distribution Service for a new station at San Antonio, Texas; designating applications for consolidated hearing on stated issues.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at San Antonio, Texas. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, IT IS HEREBY ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing*, in a *consolidated proceeding*, at a time and place to be specified in a subsequent Order, to determined, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered.[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered*, That Digital Paging Systems, Inc., Microband Corporation of America and the Chief, Common Carrier Bureau, *are made parties* to this proceeding.

5. *It is further ordered*, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules 47 CFR 1.221.

6. *It is further ordered*, That any authorization granted to Digital Paging Systems, Inc., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Control/MDS*, 85 FCC 2d 1023 (1981).

[2] By Memorandum Opinion and Order adopted June 26, 1981, and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] This finding is subject to paragraph 6, *infra*.

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. The Order is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-7824 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

Digital Paging Systems, Inc. et al.; Hearing

Memorandum Opinion and Order

Adopted: March 11, 1983.

Released: March 21, 1983.

In re applications of: Digital Paging Systems, Inc., CC Docket No. 83-221, File No. 50061-CM-P-74; and Microband Corporation of America, CC Docket No. 83-222, File No. 50191-CM-P-74; for construction permits in the Multipoint Distribution Service for a new station at Oklahoma City, Oklahoma; designating applications for consolidated hearing on state issues.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at Oklahoma City, Oklahoma. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, *It is hereby ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing,* in a *consolidated proceeding,* at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relatives merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered,* That Digital Paging Systems, Inc., Microband Corporation of America and the Chief, Common Carrier Bureau, *are made parties* to this proceeding.

5. *It is further ordered,* That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. *It is further ordered,* That any authorization granted to Digital Paging Systems, Inc., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in hearing designated in *A.S.D. Answering Service, Inc., et al.,* FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-7825 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Control/MDS,* 85 FCC 2d 1023 (1981).

[2] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] This finding is subject to paragraph 6, *infra.*

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain,* 77 FCC 2d 20 (1980).

Digital Paging Systems, Inc., et al.; Hearings

Memorandum Opinion and Order

Adopted: March 11, 1983.

Released: March 21, 1983.

In re applications of: Digital Paging Systems, Inc., CC Docket No. 83-223, File No. 50080-CM-P-74; and M.C.C.A. Service Corporation, CC Docket No. 83-224, File No. 50228-CM-P-74; and Microband Corporation of America, CC Docket No. 83-225, File No. 50008-CM-P-75; and H. L. Woodbury, CC Docket No. 83-226, File No. 50026-CM-P-75; for construction permits in the Multipoint Distribution Service for a new station at Fort Worth, Texas; designating applications for consolidated hearing on stated issues.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at Fort Worth, Texas. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Controls/MDS, 85 FCC 2d 1023 (1981).*

[2] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] This finding is subject to paragraph 6, *infra.*

3. Accordingly, *it is hereby ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing*, in a *consolidated proceeding*, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered*, That Digital Paging Systems, Inc., M.C.C.A. Service Corporation, Microband Corporation of America, H. L. Woodbury and the Chief, Common Carrier Bureau, *are made parties* to this proceeding.

5. *It is Further ordered*, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. *It is further ordered*, That any authorization granted to Digital Paging Systems, Inc., a wholly-owned Subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980)

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register**.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-7826 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

Faye & Richard Tuck, Inc., et al.; Hearing

In re applications of Faye & Richard Tuck, Inc., KBEC, Waxahachie, Texas, MM Docket No. 83-212, File No. BP-810127AJ, Has: 1390 kHz, 0.5 kW, DA-D Req: 770 kHz, 1kW, DA-N, U; Athens Broadcasting Company, Inc., WJMW, Athens, Alabama, MM Docket No. 83-213, File No. BP-810625AG, Has: 730 kHz, 1 kW, D Req: 770 kHz, 0.5 kW, 10 kW-LS, DA-N, U; Marcos A. Rodriguez, Carrollton, Texas, MM Docket No. 83-214, File No. BP-810511AJ, Req: 770 kHz, 2.5 kW, 5 kW-LS, DA-2, U; Bluebonnet Radio Broadcasters, Inc., Plano, Texas, MM Docket No. 83-215, File No. BP-810511AL, Req: 770 kHz, 1 kW, 10 kW-LS, DA-2, U; Century Broadcasting Corporation, Garland, Texas, MM Docket No. 83-216, File No. BP-810511AM, Req: 770 kHz, 1 kW, 10 kW-LS, DA-2, U; Plano Broadcasting Corporation, Plano, Texas, MM Docket No. 83-217, File No. BP-810511AO, Req: 770 kHz, 1 kW, 5 kW-LS, DA-2, U; Dontron, Inc., KPBC, Garland, Texas, MM Docket No. 83-218, File No. BP-810511AP, Has: 1040 kHz, 1 kW, D (Dallas, Texas) Req: 770 kHz, 1kW, 5 kW-LS, DA-2, U; for construction permit; designating applications for consolidated hearing on stated issues.

Hearing Designation Order

Adopted: March 10, 1983.

Released: March 21, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned mutually exclusive applications for new AM broadcast stations and for changes in the facilities of three (3) AM broadcast stations; (b) informal objections to all of the applications filed by Hubbard Broadcasting, Inc. (Hubbard), licensee of station KOB, Albuquerque, New Mexico; (c) a petition to deny the Athens Broadcasting Co., Inc. (Athens), application and comments concerning the other six (6) applications filed by American Broadcasting Companies, Inc. (ABC); (d) a petition to dismiss the Marcos A. Rodriguez (Rodriguez), Bluebonnet Radio Broadcasters, Inc. (Bluebonnet), Century Broadcasting Corporation (Century), Plano Broadcasting Corporation (Plano) and Dontron, Inc. (Dontron), applications filed by Faye & Richard Tuck, Inc. (Tuck); and (e) relevent pleadings.

2. Hubbard Broadcasting, Inc. has filed objections to each of the above-captioned applications. Hubbard states that it has filed a request for a waiver of § 73.22 of the Rules together with an application for modification to operate KOB as a Class 1-A facility and a petition for rule making to assign frequency 770 kHz to Albuquerque, New Mexico. Hubbard asserts that its proposed operation of KOB as a Class 1-A station on 770 kHz would preclude the above proposals.

3. The Chief, Broadcast Bureau, by separate letters, both dated June 9, 1981, dismissed the petition for rule making and denied the request for waiver of Section 73.22 of the Rules. Hubbard's two applications for review were considered together by the Commission and were denied. *Hubbard Broadcasting Inc.*, 87 F.C.C. 2d 988 (1981). Hubbard filed an appeal in the United States Court of Appeals for the Eighth Circuit, and on August 6, 1982 the appeal was dismissed for lack of jurisdiciton (Case No. 81-2295). On November 4, 1982, Hubbard filed an appeal in the United States Supreme Court, Case No. 82-772. The case is currently pending. To assure that future Commission action (in light of the pending Hubbard appeal) will not be prejudiced, we will place an appropriate condition on the construction permit should any of the above applications be granted. To that extent the Hubbard objection is granted and in all other respects denied.

4. ABC filed a petition to deny the Athens application.[1] The petition alleges that the proposed nighttime antenna array cannot be adjusted and proven so that it will not cause objectionable interference to ABC's station WABC, New York, New York. In addition, according to ABC, the construction costs shown in the application are unrealistically low and demonstrate a failure of the applicant to appreciate the complexities of constructing a directional antenna system in accordance with proper engineering practice. More specifically, ABC asserts that computer calculations of the necessary "critical-angle protections (EMAX)" from the Athens site to the

[1] A showing of possible electrical interference to ABC's Class 1-A station, WABC, gives it standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1943, as amended. *FCC v. National Broadcasting Co., Inc.*, 319 U.S. 239 (1943).

relevant WABC contour show clearance to be "extremely tight" and computer stability analysis indicates that theoretical radiation could exceed the standard pattern during operation and cause interference to the WABC 0.5 mV/m 50% nighttime skywave contour. ABC further asserts that the potential interference problem cannot be resolved by designating the proposal a critical array and requiring the maintenance of parameters within ±1% and ±1 degree of those proposed because, according to ABC, its study shows the proposed array would "just barely" remain within the standard pattern at these tolerances if it were in perfect adjustment at the outset. If the array were initially adjusted out near the standard pattern field, ABC asserts, the operating tolerance could be used up and operation within critical array tolerances could still cause objectionable interference to WABC. In addition, ABC asserts that the "extremely" low fields specified for this array will make it impossible to prove it in perfect adjustment and Athens has not specifically stated that it intends to restrict power to reduce the RMS to a minimum. Concerning the cost figures shown on the application for the proposed antenna system, ABC asserts that Athens lists only $2000 for engineering costs, but ABC's experience indicates that the costs for a full proof of a directional antenna system are nearer to ten times that amount. Further, ABC asserts that a cost estimate from the manufacturer of the equipment proposed by Athens shows an antenna system for the Athens proposal would cost in excess of $170,000, and the transmitter would cost almost $50,000, but Athens has listed only $35,000 and $20,000 respectively. ABC concedes that used equipment and package discounts could lower the price somewhat, however, it assert that the entire tower and ground system costs have been left out of Athens' figures. ABC asserts that the funding proposal indicates the applicant has not devoted sufficient attention to the construction of the facility.

5. Athens, in its opposition pleading, asserts the proposed array can be adjusted so that no objectionable interference will be caused to WABC. In addition, it has amended its proposal to reflect that the RMS will be limited by adjustment of the transmitter output, if necessary. Athens has also modified its cost figures somewhat to show slightly higher costs for the antenna system, transmitter and engineering which it states are based on "current quotes." Athens asserts the cost figures obtained from the manufacturer by ABC are too high but in any event, according to Athens, it will have the necessary funds to construct and operate the facility because it will have a positive cash flow in excess of the construction costs. ABC, in its reply pleading, continues to assert that the proposed antenna array cannot be adjusted to provide sufficient operating tolerance to prevent objectionable interference to WABC even with critical array restrictions.

6. With regard to the stability of the proposed nighttime antenna proposal we agree generally with petitioner. Our computer study using the data supplied by ABC and Athens shows that when the parameters are varied by 1 percent and 1 degree current ratio and phase deviation, respectively, the standard pattern could be exceeded; the proposal is, therefore, a critical array and if granted will be appropriately conditioned. We do not agree, however, with ABC's contention that the proposed array cannot be adjusted to protect the WABC service area. ABC concedes the proposal does not specify a horizontal standard pattern field less that 6 mV/m in any direction and is thus not in violation of the rules. It argues however, that it is "extremely improbable" that the low fields specified for the array can be generated and reliably measured. We do not agree. Athens has amended its proposal to specify that it will adjust its transmitter output to reduce the RMS if necessary to assure operation within the standard pattern limits. We will place appropriate operating conditions on the construction permit should the Athens proposal be granted. ABC's contention that the low proposed construction costs are an indication of Athens lack of knowledge concerning directional antenna systems raises no issue. The proposed costs are not unduly low when compared to the other applicants and could just as well be an indication of the applicant's knowledge and experience. We will grant the ABC petition to the extent noted above and deny it in all other respects.

7. ABC filed comments to all the remaining applications; it does not object to the grant of any of these applications, but asserts that its computer stability analysis shows that these proposals could cause interference to the WABC 0.5 mV/m 50% nighttime skywave contour. ABC requests the proposals be designated critical arrays. A determination of stability involves many factor both internal and external to the array and as we noted in *Home Service Broadcasting Corporation (WGTR)*, 68 F.C.C. 2d 1135 (1978), we do not rely exclusively on computerized stability studies in making a determination of array stability. In utilizing computerized stability studies it has been our policy to consider directional antenna arrays which do not exceed their radiation limits (standard patterns) with 1.0 percent and 1.0 degree current ratio and phase deviation, respectively, as being generally stable. Those arrays which exceed their radiation limits with parameter variations of 0.1 percent and 0.1 degree are considered highly unstable. Those arrays which exceed their radiation limits with parameter variations between those extremes are considered on a case-by-case basis taking into consideration other factors which bear upon the stability of the array. See *Radio Nevada Corp. (KDWN)*, BC Docket No. 79-313 (Br. Bur., released November 28, 1979). Our computer analysis studies of the applications, using information supplied by ABC and the applicants, shows that when subjected to minor variations in operating parameters the nighttime proposals of Tuck, Bluebonnet and Plano could exceed their standard patterns. We find that these proposals are sensitive to changes in their operating parameters in that less than one percent amplitude (current ratio) variations and one degree phase deviation could result in radiation greater than the specified standard values. In order to ensure operation within the standard pattern limits we will place appropriate conditions on the construction permits should any of these applications be granted. With respect to the Rodriguez, Century and Dontron proposals, our computer studies show these nighttime proposals exhibit a condition of inherent instability in that parameter variations as small as one tenth of one percent (0.1%) amplitude (current ratio) variation and one tenth of one degree (0.1 degree) phase deviation could result in radiation greater than the specified standard radiation values. We are unable to determine from the information before us if these nighttime directional proposals can be adjusted and maintained within their standard pattern limits. We will, therefore, specify appropriate issues. To the extent set out above the comments of ABC are accepted and its requests are granted.

8. Tuck filed a petition to dismiss the Rodriguez, Bluebonnet, Century, Plano and Dontron applications (the applicants). Tuck asserts that the designated communities of the five applicants are all within the Dallas urbanized area, and there are eighteen commercial broadcast stations licensed in Dallas County, most of which are authorized to operate unlimited time.

Therefore, according to Tuck, it is not possible for the five competing applicants to be in compliance with § 73.37(e)(2)(ii) of the Rules. Moreover, Tuck asserts the directional patterns, transmitter sites and power levels proposed "were all part of a plan to serve the Dallas, Texas Area" in violation of the rule. Tuck further asserts that all five of the applicants propose daytime power in excess of their nighttime power in violation of § 73.37, Note 5 of the Rules. The applicants, in their opposition pleadings,[2] deny the allegations and assert the petition is untimely and unsupported. Century asserts its designated community of Garland is incorporated and is the tenth largest city in Texas. Tuck, in its reply pleading, asserts that the Commission is required to make a fair and equitable distribution of frequencies between cities, counties and states, but there is no full time facility licensed to Ellis County where its designated city (Waxahachie) is located. Tuck states there are many full time stations licensed to Dallas County, therefore, according to Tuck, there has been a breakdown in the "fundamental allocations process." Tuck further asserts that the applicants' argument that its petition is untimely is based on an "archaic procedural rule" that fails to meet the "public's need in these matters."

9. The Census Bureau map submitted by Tuck in support of its petition shows Plano is located in Collin County; Carrollton, and Garland are located in Dallas County; all are located within the Dallas Urbanized area and have separate and distinct boundaries. Tuck has not demonstrated why these designated communities are not cities, towns or other political subdivisions as required for licensing of stations by Section 73.1120 of the Rules. See *Teche Broadcasting Corp., et al.*, 52 F.C.C. 2d 970 (Rev. Bd. 1975), *Riverside Amusement Park Co., Inc. KPHX*, 69 F.C.C. 2d 944 (Rev. Bd. 1981). None of the three communities has a nighttime aural transmission service authorized to it and no FM channel is available to any of them. Contrary to Tuck's assertions, all five applications propose a first nighttime aural transmission service to their communities and are therefore in conformance with Section 73.37(e)(2)(ii) of the Rules. Moreover, an applicant's intention to serve additional areas as well as its designated community does not constitute a violation of any rule. Tuck's assertion that the five proposals violate the provisions of Note 5 to § 73.37 is in error. Note 5, which limits daytime power to that proposed for nighttime operation if the proposal will result in more than two aural transmission services during daytime for the specified community, is inapplicable here since none of the proposed communities have any broadcast facilities authorized to them. Tuck will have an opportunity during the comparative hearing process to argue that grant of its proposal will best serve the public interest; its petition to dismiss raises no issues. We will deny Tuck's petition to dismiss.

10. *Public Notice.* We have no evidence that Athens, Plano and Dontron have published the local notice of the filing of their applications as required by § 73.3580 of the Rules. These applicants must demonstrate that they have complied with the rule as required.

11. *Faye & Richard Tuck, Inc.* Tuck filed a petition for leave to amend on January 7, 1983, and an amendment which certified its legal and financial qualifications as required by the revised application form (FCC Form 301). The amendment removes potentially disqualifying defects in the Tuck application and will prejudice no other party. We will accept the amendment.

12. *Athens Broadcasting Company, Inc.* The environmental narrative statement filed by Athens did not contain information concerning a description of the proposed antenna site, the surrounding area and its uses, the zoning classification and whether the proposal has been a source of controversy in the community as required by § 1.1311(a) (2), (3) and (4) of the Rules; it must do so.

13. Athens filed a petition for leave to amend its application and an amendment on November 22, 1982. The last day on which Athens could have filed an amendment as a matter of right pursuant to § 73.3522(a)(2) was October 16, 1981 (the "B" cut off date). The amendment is thus untimely. Late filed amendments will be considered only upon a showing of good cause. The amendment proposes to reduce the nighttime power to 250 watts which, according to Athens, will eliminate any interference problems and remove electrical conflict with the other applicants; it is not, therefore, required to be filed by § 1.65 or 73.3514 of the Rules. The applicant does not explain why the amendment could not have been timely filed and we do not agree with its assertion that acceptance of the amendment would be in the public interest. This proceeding involves six other applicants and processing of all applications was substantially completed by the time Athens filed its amendment. Consideration of the applicant's new engineering proposal will require technical analysis of all seven applications and will significantly delay these proceedings. We think the public interest requires that Athens' November 22, 1982 amendment be returned to it without staff consideration as authorized by § 73.3522(a)(2) of the Rules; we will so order.

14. *Marcos A. Rodriguez.* This applicant proposes to operate with nighttime power of 2.5 kilowatts. Section 73.21(a)(2)(ii)(C) of the Rules establishes a one-kilowatt nighttime power ceiling for Class II-B stations on 1-A clear channels in already well served areas such as Carrollton, Texas. The applicant has a heavy burden to show that the power it proposes is necessary to provide principal city service and will not impede the Commission's allocation objectives; it may meet the latter by showing either that the higher power would not preclude other possible co-channel unlimited time Class II assignments or that the improved principal-city service achieved by higher power clearly outweighs any potential service that might be precluded. Since it cannot be determined from the record whether waiver of § 73.21 is warranted, an issue will be specified.

Rodriguez filed petitions for leave to amend and amendments on February 12, 1982, April 23, 1982 and January 14, 1983. The amendments report minor changes in ownership and broadcast interests and information concerning an EEO complaint and are required under § 1.65 of the Rules. The information reported does not affect the comparative position of the applicant and no other applicant will be prejudiced. We will therefore grant the petitions and accept the amendments.

16. *Bluebonnet Radio Broadcasters, Inc.* Bluebonnet has indicated the intention of its principals to divest themselves of their interest in station KSKS, Conroe, Texas if their application is granted. In order that no comparative disadvantage be assessed because of these broadcast interests the applicant requests that grant of its application be conditioned to require disposal of the interests. We will grant Bluebonnet's request. *Lee Broadcasting, Inc.*, 45 FR 3509 (Br. Bur., released May 14, 1980), *Town & Country, Inc.*, 41 R.R. 2d 151 (Rev. Bd. 1977).

17. Bluebonnet filed petitions for leave to amend on November 13, 1981, December 24, 1981, and September 28, 1982. The applicant also filed amendments on September 23, 1981 and January 19, 1982. All of these

[2] The record does not contain opposition pleadings for Bluebonnet and Plano.

amendments report minor changes in the broadcast interests of the applicant's principals and sales of the applicant's stock. The amendments are required by § 1.65 of the Rules and will prejudice no other applicant nor confer a comparative advantage to Bluebonnet. We will grant the petitions and accept the amendments.

18. *Century Broadcasting Corporation.* The environmental narrative statement filed by Century did not contain information concerning the zoning classification of the proposed antenna site as required by § 1.1311(a)(3) of the Rules. Century must file the required information.

19. Century filed petitions for leave to amend and amendments to its application on October 20, 1981 and August 25, 1982. Both amendments report changes in the broadcast interests of the applicant's principals and are required by Section 1.65 of the Rules. No other applicant will be prejudiced by the amendments and no comparative advantage will accrue to Century because of them. We will grant the petitions and accept the amendments.

20. *Plano Broadcasting Corporation.* The environmental narrative statement filed by the applicant did not contain information concerning the zoning classification of the site as required by § 1.1311(a)(3) of the Rules. Plano must file the required information.

21. The material submitted in the application does not demonstrate the applicant's financial qualifications.[3] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date the release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (Br. Bur., Released July 15, 1982.)

[3] The application shows that $149,977 will be required to construct and operate the station for three months. The applicant proposes to finance the proposal with $60,255 existing capital and a $175,000 loan from National Career Consultants, Inc. The financial statements submitted for National Career Consultants, Inc., do not show the $175,000 is available.

22. Except as indicated by the issues specified below, all seven applicants are qualified to construct and operate as proposed.[4] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although most of the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

23. Accordingly, *it is ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding,* to be held before and Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the antenna systems proposed by Rodriguez, Century and Dontron can be adjusted and maintained within the proposed limits of radiation.

2. To determine, with respect to the Rodriguez proposal, whether circumstances exist which warrant a waiver of § 73.21(a)(2)(ii)(C) of the Commission's Rules.

4. To determine the areas and populations, which would receive primary service for each proposal, and the availability of other primary aural services to such areas and populations.

5. To determine in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

6. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

[4] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

24. *It is further ordered,* That the objections filed by Hubbard Broadcasting, Inc., to the Tuck, Athens, Rodriquez, Bluebonnet, Century, Plano and Dontron proposals *are granted,* to the extent set out in paragraph 3 above, and in all other respects, DENIED.

25. *It is further ordered,* That the construction permits for the applicants listed in paragraph 24 above, should any be granted, shall contain the following condition:

This grant is subject to and conditioned upon any action the Commission may deem necessary or appropriate in light of the final outcome of the currently pending appeal entitled *Hubbard Broadcasting, Inc.* v. *FCC,* filed November 4, 1982 at the Supreme Court of the United States (Case No. 82-772).

26. *It is further ordered,* That the ABC petition to deny the Athens application *is granted,* to the extent set out in paragraph 6 above, and in all other respects, *is denied.*

27. *It is further ordered,* That the comments filed by ABC concerning the applications of Tuck, Rodriguez, Bluebonnet, Century, Plano and Dontron are accepted and its requests that the applicants' antenna proposals be designated critical arrays, *are granted* to the extent set out in paragraph 7 above and the construction permits of the Tuck, Bluebonnet, Plano and Athens, if any of them should be granted, shall contain the following conditions:

To insure maintenance of the radiated fields within the authorized values of radiation an antenna monitor of sufficient accuracy and repeatability, having a minimum resolution of 0.1 degree phase deviation and 0.1 percent sample-current deviation, shall be installed and continuously available to indicate the relative phase and magnitude of the sample currents of each element in the array.

Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios, and sample-current deviations for each element of the array, along with the final amplifier plate voltage and current, the common point current, and field strengths of each monitoring point for both nondirectional and directional operations for a period of at least 30 days, to demonstrate that the array will be maintained within the specified tolerances.

28. *It is further ordered,* That the petition to dismiss filed by Tuck *is denied.*

29. *It is further ordered*, That Athens, Plano and Dontron comply with the local notice requirements of § 73.3580 of the Commission's Rules, if they have not done so, and certify as to compliance with the Administrative Law Judge within thirty (30) days of the release of this Order.

30. *It is further ordered*, That Athens, Century and Plano comply with the environmental narrative statement requirements of § 1.1311 of the Commission's Rules as set out in the relevant paragraphs above, and submit the required information to the Administrative Law Judge within thirty (30) days of the release of this Order.

31. *It is further ordered*, That Plano shall file the financial certification of qualification discussed in paragraph 21 above or advise the Administrative Law Judge, within thirty (30) days of the release of this Order that the certification cannot be made.

32. *It is further ordered*, That the petitions for leave to amend filed by Tuck, Rodriquez, Bluebonnet and Century discussed in paragraphs 11, 15, 17 and 19, respectively, *are granted* and the relevant amendments are accepted.

33. *It is further ordered*, That the petition for leave to amend filed by Athens on November 22, 1982, *is denied* and the relevant amendment will be returned to the applicant without consideration.

34. *It is further ordered*, That the construction permit for the Bluebonnet application, if it should be granted, shall contain the following condition:

Before program test authority (PTA) is granted, the applicant and its principals shall divest themselves of any interest in station KSKS, Conroe, Texas.

35. *It is further ordered*, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules the applicants shall, within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the dates fixed for the hearing and to present evidence on the issues specified in this Order.

36. *It is further ordered*, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and §73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the rule, and shall advise the Commission of the publication of the notices as required by § 73.3594(g) of the rules.

37. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower(s) proposed by the below listed applicant(s). Accordingly, *it is further ordered*, That the following issue is specified:

3. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height(s) and location(s) proposed by Athens Broadcasting Co., Inc., and Plano Brodcasting Corporation.

It is further ordered, That the Federal Aviation Administration *is made a party* to the proceeding.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-7818 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

French Camp Radio, Inc., et al.; Hearing

Hearing Designation Order

Adopted: March 4, 1983.
Released: March 16, 1983.

In re applications of: French Camp Radio, Inc., Ackerman, Mississippi, MM Docket No. 83-210, File No. BPH-811016AG, Req: 107.9 MHz, Channel 300, 100 kW (H&V), 615 feet; Radio Ackerman, Inc., Ackerman, Mississippi, MM Docket No. 83-211, File No. BPH-820219AF, Req: 107.9 MHz, Channel 300, 100 kW (H&V), 500 feet; for construction permit for a new FM station; designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by French Camp Radio, Inc. (French Camp) and Radio Ackerman, Inc. (Radio Ackerman).

2. *French Camp*. The material submitted in the application does not demonstrate the applicant's financial qualifications.[1] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378.

3. *Radio Ackerman*. Section II, question 10, Form 301, asks:

> Do documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that: (a) Voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d)) will be obtained?

Radio Ackerman answered no to this question. However, the applicant failed to supply the required full explanation. Accordingly, the applicant will be given 30 days from the date of the release of this Order to submit the explanation to the Administrative Law Judge in the manner called for by Section II, question 10, as to its legal qualifications.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are *designated for hearing in a consolidated proceeding*, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, which of the proposals would, on a comparative basis, better serve the public interest.

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[1] French Camp plans to finance construction and operation with a $100,000 line of credit. The Merchants and Farmers Bank letter dated March 19, 1981 requires the radio station as collateral for the line of credit. However, the broadcast equipment is being purchased on credit from Amvest Leasing and Capital Corp. Therefore, a question arises as to whether the line of credit is available.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

7. *It is further ordered*, That French Camp Radio, Inc. shall submit a financial certification in the form required by Section III, F.C.C. Form 301, within 30 days of the release of this Order, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

8. *It is further ordered*, That Radio Ackerman, Inc. shall submit a full explanation as required by Section II, question 10, F.C.C. Form 301, within 30 days of the release of this Order.

9. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-7823 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

Mark Anthony Communications Co. et al.; Hearing

Hearing Designation Order

Adopted: March 14, 1983.
Released: March 21, 1983.

In re applications of; Terry Lee Manafo d.b.a. Mark Anthony Communications Co., Warren, Pennsylvania, MM Docket No. 83-246, File No. BHP-810713AO, Req: 103.1 MHz, Channel 276A, 3 kW (H&V), 300 feet; God's Station, Inc., Russell, Pennsylvania, MM Docket No. 83-247, File No. BPH-820128AS, Req: 103.1 MHz, Channel 276A, 1.7 kW (H&V), 380 feet; for construction permit for a new FM station; designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Terry Lee Manafo d.b.a. Mark Anthony Communications Co. (MACC) and God's Station, Inc. (GSI).

2. *MACC.* MACC's proposed transmitter site will not provide a clear line of site path to part of Warren, Pennsylvania. Topographic maps and associated terrain profiles submitted with MACC's application revealed peaks on the 194 degree true bearing that could cause a degradation of coverage due to shadow loss.[1] Therefore, an appropriate issue will be specified.

3. MACC's local notice is deficient in that it fails to give the power, antenna height, transmitter location (not the coordinates) and the main studio location of the proposed station as required by § 73.3580 of the Commission's Rules. Moreover, this notice is required to be published, in a daily newspaper, two times a week for two weeks. Therefore, MACC will be required to republish the local notice and to file a statement of publication with the presiding Administrative Law Judge.

4. No determination has been reached that the tower heights and locations proposed by MACC and GSI would not constitute a hazard to air navigation. Accordingly, an issue will be specified.

5. *GSI.* GSI has not submitted an adequate description in narrative form of the programming service relating to the issues of public concern facing GSI's proposed service area. See *Deregulation of Radio*, 84 FCC 2d 968, 999 (1981). Accordingly, it will be necessary for the applicant to file an amendment with the presiding Administrative Law Judge.

6. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding on the issues specified below.

[1] GSI filed an amendment on July 28, 1982 which did not correct this problem

8. Accordingly, *it is ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of MACC would provide coverage of the city sought to be served, as required by § 73.315 of the Commission's Rules, and, if not, whether circumstances exist which warrant a waiver of that Section.

2. To determine the areas and populations which would receive primary aural service (1 mV/m or greater in the case of FM) from each proposal and the availability of other primary service to such areas and populations.

3. To determine, with respect to MACC and GSI, whether there is a reasonable possibility that the tower heights and locations proposed would constitute a hazard to air navigation.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

9. *It is further ordered*, That MACC shall publish a corrected local notice of its application in accordance with § 73.3580 of the Commission's Rules and so inform the Administrative Law Judge within 30 days of the release of this Order.

10. *It is further ordered*, That GSI shall file an amendment with the presiding Administrative Law Judge describing its proposed programming service relating to the issues of public concern facing its proposed service area within 30 days of the release of this Order.

11. *It is further ordered*. That the Federal Aviation Administration *is made a party respondent* to this proceeding with respect to issue 3.

12. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant § 1.1221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file

with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(A)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

[FR Doc. 83-7827 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

Meeting of the Telecommunications Industry Advisory Group Steering Committee

Pursuant to Section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group Steering Committee scheduled to meet on Monday, April 11, 1983. The meeting will be held at 9:30 a.m. in Conference Room A (10th Floor) at AT&T located at 1120 20th Street, NW., Washington, D.C. and will be open to the public.

The agenda is as follows:

I. Review of Minutes of Previous Meeting;

II. General Administrative Matters;

III. Plant Account Model;

IV. Consideration of Account Proposals;

V. Other Business;

VI. Presentation of Oral Statements; and

VII. Adjournment.

With prior approval of the Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Steering Committee objectives. Anyone not a member of the Steering Committee and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman (202/634-1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-7820 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review.

On March 18, 1983 the Federal Communications Commission submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submission are available for Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Radiocommunication Traffic Statistics of the Maritime Mobile Service.

Action: New (Nonrecurring).

Respondents: Licensees of coast (Public and Limited) stations in the Maritime Mobile Service.

Estimated Annual Burden: 2,000 Responses; 2,000 Hours.

This one-time report for traffic statistics is part of an international planning effort in which the U.S. is participating. The data will be used is studies related to the implementation of an international digital selective calling system. Response is voluntary.

Dated: March 21, 1980.

William J. Tricarico,

Secretary, Federal Communication Commission.

[FR Doc. 83-7821 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Definitions and Rules Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's Definitions and Rules Subcommittee scheduled to meet on Tuesday, April 19, 1983. The meeting will be held at 9:30 a.m. in the offices of the Federal Communications Commission, Room 311, at 1919 M Street, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. General Administrative Matters;

II. Review of Minutes of Previous Meeting;

III. Discussion of Individual Assignments;

IV. Other Business;

V. Presentation of Oral Statements; and

VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965-2830) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-7819 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

Wolfeboro Broadcasting Corp. et al.; Hearing

Hearing Designation Order

Adopted: March 10, 1983.
Released: March 16, 1983.

In re applications of; Wolfeboro Broadcasting Corp., Wolfeboro, New Hampshire, MM Docket No. 83-207, File No. BPH-810622AO, Req: 104.9 MHz, Channel 285A, .12 kW (H&V), 1214 feet; Radio Wolfeboro, Inc., Wolfeboro, New Hampshire, MM Docket No. 83-208, File No. BPH-811027AK, Req: 104.9 MHz, Channel 285A, .13 kW (H&V), 1177 feet; Fifth Estate, Inc., Wolfeboro, New Hampshire, MM Docket No. 83-209, BPH-811028AG, Req: 104.9 MHz, Channel 285A, 3.0kW (H&V), 300 feet; designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Wolfeboro Broadcasting Corp. (Wolfeboro), Radio Wolfeboro, Inc. (Radio) and The Fifth Estate, Inc. (Fifth Estate).

2. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. *Radio.* Radio seeks to amend its application to report the transfer of 241

shares of stock from Alan Severy to Sharon Severy. Because the transfer occurred after the "B" cut-off date, both Wolfeboro and Fifth Estate oppose the acceptance of the amendment for any purpose other than to show compliance with § 1.65 of the Rules. In this regard, the parties recognize that acceptance of the proffered amendment will improve the comparative position of Radio because of its impact on the integration of ownership criteria. As a general rule, a late-filed amendment will not be accepted if it improves the comparative position of the petitioner. *Flower City Television Corp.*, 4 FCC 2d 384 (1966). However, post cut-off amendments which report the culmination of events previously begun and previously reported have been accepted notwithstanding the general policy against such amendments which improve the comparative standing of an applicant. *Bie Broadcasting Co.*, 44 RR 2d 1346 (ALJ 1978) citing *Dover Broadcasting Co., Inc.*, 4 RR 2d 248 (Rev. Bd. 1965). In *Bie Broadcasting Co., supra.*, and applicant's amendment was accepted where the applicant had reported in prior amendments (1) that a contract for sale of the station in question had been signed, and (2) that an application for transfer of control had been filed, and the amendment reported a culmination of the events which had began and which were reported prior to designation. We now have before us a similar set of facts. On June 1, 1982, the last day of the "B" cut-off, Radio filed an amendment which, *Inter alia*, indicated that it contemplated effectuating a change in ownership in which 241 shares of stock would be transferred from Alan Severy to Sharon Severy, his wife. On June 1, 1982, the last day of the "B" cut-off, Radio filed a transfer application with the Commission to effectuate its proposal. The transfer application was granted on June 18, 1982, and on July 19, 1982 Radio filed a "motion for leave to amend" its application to reflect the ownership change which was effectuated on July 12, 1982. We find that the instant amendment, which is required by 1.65 of the Commission's Rules for purposes of keeping the information in the application current, merely reported the culmination of affirmative steps taken prior to the "B" cut-off date to effect the proposed change in ownership. According, Radio's petition for leave to amend will be granted and the amendment accepted even for comparative purposes.

4. *Other Matters.* On June 1, 1982, Radio filed an engineering amendment specifying an increase in its effective radiated power to .20 kilowatts, extending its 60 dBu contour to 14.5 miles. Because the amendment is not in compliance with the Candian-United States Working Agreement (concerning power versus height curves for class A, B, and C FM stations), or the policy established thereunder, and the Agreement does not provide for Commission requests for Canadian consent, Radio's request will be denied and the engineering amendment dismissed.

5. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, *it is ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. *It is further ordered*, That the engineering amendment filed by Radio Wolfeboro, Inc. is dismissed.

8. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

[FR Doc. 83-7822 Filed 3-25-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-4098.

Title: Oakland/Atlas Terminal Use Agreement.

Parties: Port of Oakland (Port)/Atlas Shipping Ltd. (Atlas).

Synopsis: Agreement No. T-4098 provides that Atlas will have the nonexclusive right to certain assigned premises at Port's Outer Harbor Terminal for the berthing, loading, discharging and related operations of Atlas' vessels and others. The term of the agreement is for three years.

Filing Party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London, Square, P.O. Box 2064, Oakland, California 94604.

Agreement No.: T-4099.

Title: Los Angeles/B-C Terminals Agreement.

Parties: City of Los Angeles (City)/B-C Terminals (B-C).

Synopsis: Agreement No. T-4099 provides for the use by B-C of certain premises at the Port of Los Angeles for the operation of a marine terminal, with compensation to be based on a sharing of revenue. The term of the agreement is for two years.

Filing Party: Gerald F. Swan, Deputy City Attorney, Office of City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90731.

Agreement No.: 8054–20.

Title: South and East Africa/U.S.A. Conference.

Parties: Hellenic Lines Ltd.; Lykes Bros. Steamship Co., Inc.; Moore-McCormack Lines, Inc.; South African Marine Corp. Ltd.

Synopsis: The basic agreement would be amended to reduce the non-reimbursable admittance fee from $25,000.00 to $10,000.00.

Filing Party: Charles F. Fischer, Chairman, South and East Africa/U.S.A. Conference, 19 Rector Street, New York, N.Y. 10006.

Agreement No.: 9615–37.

Title: Iberian/U.S. North Atlantic Freight Conference.

Parties: Costa Line, Dart Containerline, Egyptian National Line, Farrell Lines, Inc., Hapag Lloyd, Italian Line, Sea-Land Service, Inc., and Zim Israel Navigation Co., Ltd.

Synopsis: The basic agreement would be amended to: (1) Clarify that alternate port service by water may be performed between any ports within the scope of the Agreement; and (2) permit the member lines, by unanimous vote, to authorize alternate port service by land between ports in Spain and Portugal in addition to those ports between which alternate port service is now authorized.

Filing Party: Karen S. Ostrow, Attorney, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

By Order of the Federal Maritime Commission.

Dated: March 23, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-7609 Filed 3-25-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquistion of Bank Shares by Bank Holding Companies; BancTexas Group, Inc., et al.

This companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of facts that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *BancTexas Group, Inc.*, Dallas, Texas; to acquire 100 percent or the voting shares or assets of The Standard Bank, Houston, Texas. Comments on this application must be received not later than April 20, 1983.

2. *United Bankers, Inc.*, Waco, Texas; to acquire 54.85 percent of the voting shares of Farmers State Bank of Madisonville, Texas, Madisonville, Texas. Comments on this application must be received not later than April 21, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *IntraWest Financial Corporation*, Denver, Colorado; to acquire 100 percent of the voting shares or assets of IntraWest Bank of Highlands Ranch, N.A. (in organization). This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than April 21, 1983.

2. *Mercantile Bancshares Corporation*, Baltimore, Maryland; to acquire 100 percent of the voting shares or assets of County Banking and Trust Company, Elkton, Maryland. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond. Comments on this application must be received not later than April 21, 1983.

Board of Governors of the Federal Reserve System, March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7920 Filed 3-25-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; CBT Corp. et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

a. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts, 02106:

1. *CBT Corporation*, Hartford, Connecticut (fiduciary and trust activities; Florida): To engage, through its subsidiary, CBT Trust Company of Florida, N.A., in the functions and activities that may be performed by a trust company including acting in any fiduciary capacity and in other incidental activities necessary to conduct a general trust company business. These activities will be conducted from an office in West Palm Beach, Florida, serving the State of Florida. Comments on this application must be received not later than April 20, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (mortgage banking and related lending and insurance activities; Texas): To engage through its subsidiary, Chase Home Mortgage Corporation, in the making or acquiring for its own account or for the account or others, loans and other extensions of credit for any person, selling mortgage life insurance, accident and health insurance and disability insurance

directly related to such lending and servicing activities. These activities will be conducted from an office located in Clear Lake City, Texas, serving Texas, including the counties of Harris, Galveston, Brazoria and Fort Bend. Comments on this application must be received not later than April 18, 1983.

2. *The Chase Manhattan Corporation*, New York, New York (mortgage banking and related lending and insurance activities; Texas): To engage through its subsidiary Chase Home Mortgage Corporation, in the making or acquiring for its own account or for the account of others, loans and other extensions of credit for any person, selling mortgage life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities will be conducted form an office in Dallas, Texas, serving the State of Texas, including the counties of Dallas, Tarrant, Collin, Ellis, and Rockwell. Comments on this application must be received not later than April 18, 1983.

3. *The Chase Manhattan Corporation*, New York, New York, (mortgage banking and related lending and insurance activities; Florida): To engage through its subsidiary, Chase Home Mortgage Corporation, in the making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by real estate, including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties, servicing loans and other extensions of credit for any persons, selling mortgage loans in the secondary market, and offering mortgage term life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities will be conducted from an office in Orange Park, Florida, serving northeast Florida including Clay, St. Johns, Putnam, Bradford, Alachua, and western Duval Counties, comments on this application must be received not later than April 18, 1983.

4. *Key Banks Inc.*, Albany, New York (servicing loans and other extensions of credit, data processing and data transmission services; New York, Maine): To engage, through it subsidiary, Key Services Corporation, in the servicing of loans and other extensions of credit, in providing bookkeeping services, and in storing and processing banking, financial or related data for nonaffiliated banking organizations and others. Key Services Corporation would also engage in providing data processing and data transmission services for the internal operations of the holding company or its subsidiaries and for nonaffiliated banking organizations and others. The activities would include performing accounts receivable or payable or billing services in connection with the debit and/or credit card operations of banks, providing a point-of-sale and automated teller machine network and communication switching and settlement services for subsidiaries of Applicant, and other banks and thrift institutions; creating and maintaining appropriate computer records of bank merchant and cardholder customers, posting transactions, preparing and reconciling statements, mailing statements, producing and mailing debit and/or credit cards, providing authorization service to merchants, and handling normal customer and merchant inquiries and problems. These activities would be conducted from an office in Albany, New York, serving the State of New York and Maine. Comments on this application must be received not later than April 21, 1983.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawkeye Bancorporation*, Des Moines, Iowa (mortgage lending and servicing activities; serving Iowa and contiguous areas in Nebraska and South Dakota): To establish *de novo* offices at the following locations: Cedar Rapids, Iowa, serving Linn County, Iowa and contiguous counties; Sioux City, Iowa, serving Woodbury County, Iowa and contiguous counties; Des Moines, Iowa, serving Polk County, Iowa and contiguous counties; Burlington, Iowa, serving Des Moines County, Iowa and contiguous counties; Ankeny, Iowa, serving Polk County, Iowa and contiguous counties; Council Bluffs, Iowa, serving Pottawatamie County, Iowa and contiguous counties, at which Hawkeye Bancorporation will engage indirectly through its existing subsidiary Hawkeye Mortgage Company in mortgage lending, servicing and related activities currently authorized by the Federal Reserve Board to be conducted from its prinicpal office in West Des Moines, Iowa. Comments on this application must be received not later than April 11, 1983.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation* ("Northwest"), Minneapolis, Minnesota (financing and insurance activities; California): To continue to engage, through its subsidiary, Dial Finance Company of California ("Dial Finance/California"), in the activity of consumer finance, and in the sale of credit life, credit accident and health, and property and casualty insurance, directly related to extensions of credit by said subsidiary; and to engage *de novo*, through its Dial Finance/California subsidiary, in the activity of commercial finance. Dial Finance/California engaged in consumer finance and the above credit-related insurance activities in California at the time of its acquisition by Northwest, which acquisition occurred pursuant to a binding written contract entered into on or before May 1, 1982, thereby rendering said activities permissible under the terms of Section 601(D) of the Garn- St Germain Depository Institutions Act of 1982. This application is for the relocation of an existing office in Monterey, California, to Salinas, California and requests permission to engage *de novo* in the activity of commercial finance from said office, as relocated. Upon relocation, this office will serve Salinas, California. Comments on this application must be received not later than April 11, 1983.

2. *Northwest Bancorporation* ("Northwest"), Minneapolis, Minnesota (financing and insurance activities, New Jersey and Pennsylvania): To continue to engage, through its subsidiary, Dial Finance Company of New Jersey, Inc. ("Dial Finance/New Jersey"), in the activity of consumer finance and in the sale of credit life, and credit accident and health insurance, directly related to extensions of credit by said subsidiary, and to engage *de novo*, through its Dial Finance/New Jersey subsidiary, in the activity of commercial finance. Dial Finance/New Jersey engaged in consumer finance and the above credit-related insurance activities in New Jersey at the time of its acquisition by Northwest, which acquisition occurred pursuant to a binding written contract entered into on or before May 1, 1982, thereby rendering said activities permissible under the terms of Section 601(D) of the Garn- St Germain Depository Institutions Act of 1982. This application is for the relocation of an existing office in Pennsauken, New Jersey, to Marlton, New Jersey; and requests permission to engage *de novo* in the activity of commercial finance from said office, as relocated. Upon relocation, this office will serve Marlton, the nearby suburbs of Camden, New Jersey, and Philadelphia, Pennsylvania. Comments on this application must be received not later than April 11, 1983.

3. *Northwest Bancorporation* ("Northwest"), Minneapolis, Minnesota

(financing and insurance activities; California): To continue to engage, through its subsidiary, Dial Finance Company of California ("Dial Finance/California"), in the activity of consumer finance, and in the sale of credit life, credit accident and health, and property and casualty insurance, directly related to extensions of credit by said subsidiary; and to engage *de novo*, through its Dial Finance/California subsidiary, in the activity of commercial finance. Dial Finance/California engaged in consumer finance and the above credit-related insurance activities in California at the time of its acquisition by Northwest, which acquisition occurred pursuant to a binding written contract entered into on or before May 1, 1982, thereby rendering said activities permissible under the terms of Section 601(D) of the Garn- St Germain Depository Institutiions Act of 1982. This application is for the relocation within the same city of an office in Oxnard, California; and requests permission to engage *de novo* in the activity of commercial finance, as relocated. Upon relocation, this office will serve Oxnard, California. Comments on this application must be received not later than April 11, 1983.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.*, Denver, Colorado (finance, insurance; Colorado): To establish a *de novo* office of its subsidiary, United Financial Centers, Inc., to be engaged in making or acquiring for its own account, loans or other extensions of credit, such as would be made or acquired by a finance company; servicing loans and other extensions of credit and offering credit related life and credit related health and accident insurance; such activities will include, but not be limited to making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses and making loans and other extensions of credit secured by real property; in Golden, Colorado, serving central Jefferson County, Colorado including contiguous portions of the cities of Wheatridge, Lakewood and Golden, Colorado. Comments on this application must be received not later than April 20, 1983.

Board of Governors of the Federal Reserve System, March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7925 Filed 3-25-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Datatel of Florida, Inc.; City National Bank Corp.

City National Bank Corporation, Miami, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Datatel of Florida, Inc., Alexandria, Virginia.

Applicant states that the proposed subsidiary would engage in the activity of data processing. These activities would be performed from an office of Applicant's subsidiary in Miami Lakes, Florida, and the geographic areas to be served are south and central Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 20, 1983.

Board of Governors of the Federal Reserve System, March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7922 Filed 3-25-83; 8:45 am]

BILLING CODE 6210-01-M

Merger of Bank Holding Companies; Community Bancorp, Inc.

Community Bancorp, Inc., Manchester, Missouri, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with B.O.B. Financial Corporation, Bismark, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 20, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7923 Filed 3-25-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Lenders Life Insurance Company; Continental Bancorp, Inc.

Continental Bancorp, Inc., Philadelphia, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to transfer voting shares of Lenders Life Insurance Company, Phoenix, Arizona from its banking subsidiary to Applicant.

Applicant states that the proposed subsidiary would engage in the activities of reinsurer of credit-related life and disability insurance. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic area to be served is southeastern Pennsylvania. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question

must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 21, 1983.

Board of Governors of the Federal Reserve System, March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7924 Filed 3-25-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; County Bancorp, Inc. et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *County Bancorp, Inc.*, Montrose, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of County National Bank of Montrose, Montrose, Pennsylvania. Comments on this application must be received not later than April 20, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Tuskaloosa Corporation*, Tuscaloosa, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Tuskaloosa, Tuscaloosa, Alabama. Comments on this application must be received not later than April 19, 1983.

2. *The Flagler Bank Corporation*, West Palm Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Flagler National Bank of The Palm Beaches, West Palm Beach, Florida. Comments on this application must be received not later than April 20, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers Investment Corporation*, Little Rock, Arkansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers Bank and Trust Company, Clarksville, Arkansas. Comments on this application must be received not later than April 21, 1983.

2. *The Peoples Holding Company*, Tupelo, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank & Trust Company, Tupelo, Mississippi. Comments on this application must be received not later than April 21, 1983.

3. *Security Financial Corp.*, Starkville, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank, Starkville, Mississippi. Comments on this application must be received not later than April 21, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *American National Bancshares, Inc.*, Baxter Springs, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of American National Bank, Baxter Springs, Kansas. This application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than April 21, 1983.

Board of Governors of the Federal Reserve System, March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7921 Filed 3-25-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

Advisory Board; Subcommittee on Contracting; Meeting

Notice is hereby given that the meeting of the GSA Advisory Board's Subcommittee on Contracting, scheduled for March 29, 1983, in Boston, Massachusetts, has been postponed. This meeting was previously announced in the **Federal Register** and will be rescheduled (48 FR 12136, March 23, 1983).

For further information, contact Roger C. Dierman, Deputy Associate Administrator, on (202) 523-1141.

Charles S. Davis III,

Associate Administrator.

[FR Doc. 83-7927 Filed 3-25-83; 8:45 am]

BILLING CODE 6820-26-M

Advisory Board; Subcommittee on Supply and Distribution; Meeting

Notice is hereby given that the GSA Advisory Board's Subcommittee on Supply and Distribution will meet on April 8, 1983, from 10:00 a.m. to 4:30 p.m. in Room 328 of the John W. McCormack Post Office/Courthouse, located on Post Office Square, Boston, Massachusetts 02109. This session will be devoted to discussions of matters relating to the agency's efforts to improve service to the Federal Government, particularly in the provision of common use supplies and non-personal services.

Less than fifteen (15) days notice is being given due to scheduling difficulties.

For further information, contact Roger C. Dierman, Deputy Associate Administrator, on (202) 523-1141.

Charles S. Davis III,

Associate Administrator.

[FR Doc. 83-7928 Filed 3-25-83; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Dates: April 19-20, 1983.

Place: Conference Room 207, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact Person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee, Centers for Disease Control (1-2035), 1600 Clifton Road, N.E., Atlanta, Georgia 30333; telephones: FTS: 236-3703, Commercial: 404/329-3703.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will review and discuss its recommendations on vaccine usage for adult immunizations, *"(Haemophilus influenzae*, hepatitis B, Japanese B encephalitis, smallpox, and pertussis; for varicella-zoster immune globulin in the prevention of chickenpox; and will consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: March 21, 1983.

Walter R. Dowdle,

Acting Director, Centers for Disease Control.

[FR Doc. 83-7891 Filed 3-25-83; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement on the Proposed Construction of a Sports Stadium Near Firebird Lake on Gila River Indian Community Lands, Maricopa County, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the proposed construction of a sports stadium near Firebird Lake on Gila River Indian Community Lands, Maricopa County, Arizona. Public meetings regarding this proposal and preparation of this EIS will also be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

The public meetings will be held on March 28 and April 12, 1983 at the Pima-Chandler Industrial Park, 7125 Allison (exit I-10 to Maricopa Road north; north to industrial park at 7125 Allison).

FOR FURTHER INFORMATION CONTACT: Robert Berger, Environmental Protection Specialist, Bureau of Indian Affairs, P.O. Box 7007, Phoenix, Arizona 85011, telephone (602) 241-2275.

SUPPLEMENTARY INFORMATION: The EIS will evaluate the impacts associated with the development and construction of an 80,000 seat sports stadium in central Arizona. The site is located on the Gila River Indian Community, approximately 12 miles south of the Phoenix Sky Harbor Airport. The proposed action includes design and construction of a sports stadium and design and construction of ancillary facilities including roadways and parking lots. Alternatives to be considered include the "no action" alternative, alternative access, and alternative sites. Scoping meetings to identify issues to be evaluated in the EIS will be held at the Pima-Chandler Industrial Park, 7125 Allison, at 7:30 p.m. on March 28 and April 12, 1983. Significant issues to be covered during the scoping process include cultural resource investigations, future land uses and potential socioeconomic changes to the area.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and Department of the Interior procedures (516 DM 1-6) for compliance with those regulations.

We estimate the Draft EIS will be available for public review in approximately three months. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: March 23, 1983.

John W. Fritz,

Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 83-7867 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[ES 14330]

Florida: Termination of Proposed Withdrawal and Reservation of Land

Notice of the Department of the Interior, Fish and Wildlife Service application ES 14330 for withdrawal and reservation of the following described land from all forms of appropriation under the public land laws except the mineral leasing laws, was published as FR Doc. 76-20093 on page 28808 of the **Federal Register**, on July 12, 1976, and republished as FR Doc. 77-24218, on page 42255 of the **Federal Register** of August 19, 1977. The applicant has canceled the application in its entirety.

Tallahassee Meridian, Florida

T. 44 S., R. 21 E.,
Sec. 6: Lot 4;
Sec. 7: Lot 10.

Containing 57.87 acres, located on Punta Blanca Island, approximately one mile north of Bird Island, the northermost island of the Pine Island National Wildlife Refuge.

Pursuant to the regulations contained in 43 CFR 2310.2-1(c), these lands shall at 7:30 a.m. on April 27, 1983 be relieved of the segregative effect resulting from the above referenced publications.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-7890 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf; Proposed Lease Sale of Polymetallic Sulfide Minerals in the Gorda Ridge; Intent To Prepare an Environmental Impact Statement

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of intent to prepare an environment impact statement.

SUMMARY: Notice is hereby given that an environmental impact statement (EIS) will be prepared for a proposed lease sale of metalliferous sulfides (hereinafter referred to as polymetallic sulfide minerals) associated with the Gorda Ridge on the Outer Continental Shelf (OCS) in the Pacific Ocean offshore of California and Oregon. The lease sale is planned to be held in the second quarter of calendar year 1984.

Federal, State, or local Government Agencies, public interest groups, and members of the public having questions or comments on the EIS and the leasing proposal, and others wishing to assist the Minerals Management Service (MMS) in determing the scope of the EIS should contact the individuals named below.

ADDRESSES: Written comments on the scope of the EIS should be submitted to: Jeffrey Zippin, Minerals Management Service, Department of the Interior, Mail Stop 644, 12203 Sunrise Valley Drive,

Reston, Virginia 22091, telephone (703) 860-6461.

FOR FURTHER INFORMATION CONTACT: Michael Cruickshank, Minerals Management Service, Department of the Interior, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (703) 860-7571.

SUPPLEMENTARY INFORMATION: Pursuant to 40 CFR 1501.7 of the Regulations for Implementation of the Procedural Provision of the National Environmental Policy Act (NEPA) of 1969, the MMS is announcing its intent to prepare an EIS for leasing polymetallic sulfide minerals on the OCS in the area of the Gorda Ridge offshore of California and Oregon. The EIS analysis will focus on leasing alternatives and their potential environmental effects and will discuss exploration and development activities considering alternative scenarios for extraction, transportation, and processing of polymetallic sulfide ores.

Section 8(k) of the OCS Lands Act, 43 U.S.C. 1337, authorizes the Secretary to grant leases for minerals other than oil, gas, and sulphur on the OCS. The National Minerals Policy Research and Development Act of 1980 (Pub: L. 96-479) requires, among other things, that responsible agencies assist in the pursuit of measures to assure the availability of critical materials and promote and encourage private enterprise in the development of economically sound and stable domestic materials industries. Polymetallic sulfides represent potential sources of eight critical minerals. The proposed leasing action is consistent with the aforementioned laws and with the Secretary's announced program of January 19, 1982 for hardrock mineral leasing activities in U.S. offshore areas.

The proposed lease sale of polymetallic sulfide minerals is scheduled for the second quarter of calendar year 1984.

The proposed lease sale area is bounded by the coordinates: 45° N latitude, 125° W longitude; 45° N latitude, 129° W longitude; 40° N latitude, 125° W longitude; 40° N latitude, 120° W longitude, exclusive of the areas beyond 200 nautical miles from the baselines from which the width of the territorial sea of the United States is measured. Maps showing this location are available for inspection at the Pacific OCS Region, 1340 West Sixth Street, Room 160, Los Angeles, California, and at the MMS Reston addresses listed above.

The Gorda Ridge is an active seafloor spreading center located between 160 and 330 kilometers off the coasts of northern California and Oregon. The Gorda Ridge trends in a NE-SW direction for approximately 334 kilometers. The ridge is terminated in the south by the Mendocino Fracture Zone (approximately 40° 30′ N latitude, 127° 30′ W longitude) and in the north by the Blanco Fracture Zone (approximately 43° N latitude, 126° 30′ W longitude). A prominent axial rift valley extends along the crest of the Gorda Ridge. At the northern end of the ridge, the rift valley is located in a maximum water depth of approximately 3,500 meters or 1,000 meters below the crest height of the ridge. A 250-meter high ridge is located within the rift valley and is interpreted to be the site of active volcanism. The rift valley is flanked by steep valley walls and is located along normal faults. Available information indicates that the width of the rift valley varies from 7 kilometers at the northern-most extension to less than 2 kilometers at a distance of 24 kilometers south of the Blanco Fracture Zone.

Polymetallic sulfides are potential sources of copper, silver, cadmium, iron, molybdenum, lead, vanadium, zinc, chromium, barium, strontium, gold, and platinum. The minerals may exist in ore-forming fluids rising from hydrothermal vents in the seabed, sulfide-bearing sands and muds, crusts of metalliferous oxides and sulfides, or stacks and other massive formations on or beneath the surface of the seabed. The form of the minerals will probably dictate the selection of the technology which would be employed to recover a particular polymetallic sulfide ore. Recovery technologies exist for each of these forms of ore deposit on land and may admit of their exploitation at these water depths. The extent of mineralization in the proposed lease area is unknown.

The Department of the Interior (DOI) is contemplating offering interested parties the opportunity to acquire, through competitive bidding, leases on tracts in the area of the Gorda Ridge for the recovery of polymetallic sulfide minerals. Tracts will be designed to be of an appropriate size to conduct exploration activities. If, during the exploration phase, exploration activities result in discoveries of commercially producible quantities of sulfide minerals, it is anticipated that, as a condition of pursuing the development and mining phases, lessees may be required to submit development and mining plans for those portions of the lease that they wish to develop. The remainder of the leased area may be required to be returned by the lessee and retained by DOI for subsequent reoffering. Proposals to extract minerals from the OCS as described in a mining plan would be subject to review under NEPA and other applicable laws prior to approval by MMS.

Alternatives and Leasing Options Under Consideration

The MMS is presently considering alternatives for analysis in the EIS. These include:

Alternative 1: No Action—Do not lease polymetallic sulfide minerals at this time.

Alternative 2: Delay Sale—Await the results of further studies of the Gorda Ridge area.

Alternative 3: Hold a lease sale for polymetallic sulfide minerals in the Gorda Ridge area.

The MMS is examining several issues with regard to leases for polymetallic sulfide mineral exploration, development, and mining including:

Lease Patterns:

- Lease all of the Gorda Ridge leasing area to a single high bidder.
- Subdivide the leasing area into multiple tracts for bidding.
- Offer leases in a checkerboard pattern with DOI retaining alternate tracts.
- Other lease patterns.

Lease Terms:

- Fixed term or variable term.
- Maximum exploration phase of 5 years, longer, or less.
- Maximum development phase of 5 years, longer, or less.
- Maximum production phase for the life of production or less.
- Criteria for return of leased lands not included in development or mining plans.
- Other terms.

Lease Conditions:

- Fixed rental.
- Variable rental according to operating phase.
- Lease sale bonus only.
- Lease sale bonus and deferred bonus contingent upon development.
- Fixed or sliding scale royalty.
- Fixed or variable net profit share.
- Other lease conditions.

The MMS invites written comments and suggestions on the scope of the EIS to be prepared for this lease sale and on the options for leasing polymetallic sulfide minerals. Comments will be used in defining the scope of the EIS. Comments, submitted to the address listed above, must be postmarked or received by May 27, 1983, in order to be considered in the EIS.

Dated: March 16, 1983.

Harold Doley,

Director, Minerals Management Service.

[FR Doc. 83-7880 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 0406 and 0407, Block 82, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 21, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-7817 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Designation of Wilderness; Isle Royale National Park

The Act of October 20, 1976, 90 Stat. 2692, designated 131,880 acres of Isle Royale National Park, plus 20 potential wilderness additions comprising 231 acres, to be known as the Isle Royale Wilderness. These wilderness designations are depicted on a map entitled "Wilderness Plan, Isle Royale National Park, Michigan," numbered 139-20004 and dated December 1974 (revised and known as "Isle Royale Wilderness, Isle Royale National Park, Michigan," numbered 139-20004, sheet 2 of 4 through 4 of 4 dated June 1978). Section 3 of the Public Law directed the Secretary of the Interior to designate the potential wilderness additions as wilderness by publication of a Notice in the **Federal Register** when all uses thereon that are prohibited by the Wilderness Act had ceased.

Two of the 20 areas in Isle Royale National Park that have been identified for potential wilderness designations consist of two corridors in Segment 2. Both corridors, one of 72 and the other of 66 acres, contained an overhead powerline. The powerline was abandoned in the spring of 1980. During the summer of 1982, the powerline was dismantled and removed.

In that these activities fully comply with the instructions contained in the Act of October 20, 1976, this Notice hereby designates 138 of 231 acres of potential wilderness additions in Isle Royale National Park as components of the National Wilderness Preservation System. This action increases the total of designated Isle Royale wilderness to 132,018 acres.

Dated: March 18, 1983.

James G. Watts,

Secretary.

[FR Doc. 83-7833 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-70-M

Women's Rights National Historical Park; Meeting

AGENCY: National Park Service, Women's Rights National Historical Park; Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of Women's Rights National Historical Park Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES:

April 18, 1983, 9:00 a.m.—4:00 p.m.
April 19, 1983, 8:30 a.m.—3:00 p.m.
Community Forum: April 18, 4:00 p.m.—6:00 p.m.

ADDRESS: Women's Rights National Historical Park, 116 Fall Street, P.O. Box 70, Seneca Falls, New York 13148.

FOR FURTHER INFORMATION CONTACT: Judy Hart, Superintendent, Women's Rights National Historical Park, 116 Fall Street, P.O. Box 70, Seneca Falls, New York 13148, (315) 569-2991.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by Pub. L. 96-607 to meet, consult and advise the Secretary with respect to matters relating to the administration of the Park. The agenda for this meeting will include: (1) Park progress to date, (2) Park issues discussion, (3) Park outreach discussion.

Community residents are encouraged to join our Open Forum on April 18 from 4:00 p.m.—6:00 p.m. to discuss local and national issues. The Open Forum will be held in the Park Office at 116 Fall Street, Seneca Falls.

The meeting will be open to the public. Facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Women's Rights National Historical Park, P.O. Box 70, Seneca Falls, New York 13148.

Minutes of the meeting will be available for inspection six weeks after the meeting at the same address above. The facility at which the meeting will be held is physically accessible. If interpretive services are requested by deaf or hearing impaired individuals, they will be provided if notification is received within five working days before the meeting, at the Park office.

Dated: March 17, 1983.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 83-7832 Filed 3-25-83; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Oregon; Amendment of Wilderness Inventory Decisions

AGENCY: Office of the Secretary, Interior.

ACTION: Amendment of Wilderness Inventory Decisions.

SUMMARY: This notice designates 3 areas totaling 7,379 acres for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA) or for consideration for other forms of protective management. This notice also amends previous wilderness inventory decisions by the Bureau of Land

Management for lands in Oregon, eliminating all or part of 29 wilderness study areas (WSA). The total area eliminated from WSA status under Section 603 of FLPMA is 147,930 acres. The total area returned to the full range of multiple uses other than wilderness is 152,493 acres.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT: Oregon State Director, Bureau of Land Management, Post Office Box 2965, 825 N.E. Multnomah Street, Portland, Oregon 97208, telephone (503) 231-6823.

Amendment of Wilderness Inventory Decisions

This notice completes the action necessary with respect to Bureau of Land Management (BLM) wilderness study areas in Oregon to bring the BLM wilderness review into compliance with recent decisions of the Interior Board of Land Appeals. Previous action on this subject was published in the **Federal Register** on December 30, 1982 (47 FR 58372).

Section 1 Consideration for Protective Management

The three areas listed in Table 1, totaling 7,379 acres, have been designated for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA) or for consideration for other forms of protective management. These areas were formerly identified as wilderness study areas under Section 603 of FLPMA. They were eliminated from that category on December 30, 1982.

Section 2 Split-Estate Lands

A. "Split-estate" lands are lands where the Federal Government owns the surface but where the subsurface mineral estate is nonfederally owned. Split-estate lands were improperly identified for wilderness study under Section 603 of FLPMA; that error is corrected by this decision.

B. The boundaries and acreages of the wilderness study areas listed in Table 2 are modified, effective upon publication of this decision in the **Federal Register**, to delete split-estate lands and certain other public lands. The deleted lands consist of: (1) Scattered tracts of split estate located within WSA's, (2) tracts of split estate located on the periphery of WSA's, and (3) tracts that are ot split estate but are isolated from the main body of the WSA by deletion of the split estate and no longer qualify for wilderness study under section 603 because they are smaller than 5,000 acres. Only the indicated acreage is eliminated from wilderness study. The remainder of the WSA remains under wilderness study, and the boundary change does not affect the BLM's previously adopted conclusions as to the presence of wilderness characteristics in the remaining WSA.

C. In one wilderness study area, deletion of the split estate affects the BLM's previously adopted conclusions as to the presence of wilderness characteristics in the remaining lands. The decision on this WSA follows.

WSA Name: Alvord Desert
Number: OR-2-74
Old WSA Acreage: 212,500
Acres Split Estate Deleted: 30,700
Acres Non-Split Estate Deleted: 77,200
Revised WSA Acreage: 104,600
Counties: Harney and Malheur

Within the Alvord Desert WSA are 30,700 acres of split estate. Some of the split estate is located in a swath where split-estate parcels alternate in a checkerboard pattern with non-split estate. This checkerboard swath divides the WSA into two tracts containing more than 5,000 acres—one of 109,100 acres on the west and another of 44,100 acres on the east. In addition, deletion of split estate creates a number of small, isolated parcels of non-split estate, each containing less than 5,000 acres and therefore not qualifying for wilderness study under section 603; the total acreage of these isolated parcels is 28,600. Deletion of split estate also creates narrow fingers of public land, containing a total of 4,500 acres, projecting from the western tract; because of their narrow configuration, these fingers do not offer outstanding opportunities for solitude or for primitive and unconfined recreation. The remaining 104,600 acres in the western tract are in an essentially natural condition and offer outstanding opportunities for solitude and for primitive and unconfined recreation. The 44,100-acre tract east of the checkerboard swath does not offer outstanding opportunities for solitude or for primitive and unconfined recreation.

Accordingly, effective upon publication of this decision in the **Federal Register**, the following lands are deleted from wilderness study area status:

	Acres
Split estate	30,700
Isolated parcels smaller than 5,000 acres	28,600
Narrow fingers projecting from western tract	4,500
Eastern tract	44,100
Total	107,900

An area of 104,600 acres in the western tract is retained as a wilderness study area because it is in an essentially natural condition and offers outstanding opportunities for solitude and for primitive and unconfined recreation.

Section 3 Contiguous Areas

The area listed in Table 3 is deleted from the status of wilderness study area, effective upon publication of this decision in the **Federal Register**. These are lands that were improperly identified for wilderness study under Section 603 of FLPMA. This area was found not to have wilderness characteristics by itself, but was found to have those characteristics in association with a contiguous wilderness candidate area administered by the U.S. Fish and Wildlife Service.

Section 4 Management of Deleted Lands

All lands in Oregon deleted from wilderness study status by this decision in Tables 2 and 3, in section 2(C) above, and by the decision issued on December 30, 1982, (47 FR 58372) and not designated for further wilderness consideration in Table 1 of this notice are hereby released from management restrictions to protect their wilderness suitability. Of these lands, 2,800 acres (Upper Leslie Gulch) are being considered for Area of Critical Environmental Concern designation and will be managed to protect the identified geological and biological values. The remaining 152,493 acres will be managed for the full range of multiple uses other than wilderness and in conformance with existing land use plans and regulations for those areas.

This is a final decision of the Department of the Interior and is not subject to appeal under 43 CFR Part 4.

Dated: March 22, 1983.

Garrey E. Carruthers,

Assistant Secretary.

TABLE 1.—AREAS BEING CONSIDERED FOR PROTECTIVE MANAGEMENT

Area name	Number	Acreage	County	Category
Upper Leslie Gulch	OR-3-74	2,800	Malheur	ACEC[1]
Steelhead Falls	OR-5-14	3,114	Jefferson/	wilderness [2].
McGraw Creek	OR-6-1	1,465	Deschutes Wallowa	wilderness.
Total	(3 areas)	7,379		

[1] "ACEC" denotes consideration for areas of critical environmental concern.
[2] In this table "wilderness" denotes wilderness consideration under Section 202 of FLPMA.

TABLE 2.—MODIFIED WILDERNESS STUDY AREAS—BOUNDARY CHANGED TO DELETE SPLIT ESTATE

WSA name	Number	Old WSA acreage	Acres split estate	Acres non-split estate deleted	Revised WSA acreage	County
Devils Garden	OR-1-2	29,640	920	0	28,720	Lake.
Squaw Ridge	OR-1-3	28,320	620	0	27,700	Lake.
Four Craters	OR-1-22	12,120	640	0	11,480	Lake.
Sand Dunes	OR-1-24	14,520	360	40	14,120	Lake.
Mount Diablo	OR-1-58	113,120	5,200	0	107,920	Lake.
Abert Rim	OR-1-101	22,240	480	0	21,760	Lake.
Mohogany Ridge	OR-2-77	27,370	160	0	27,210	Harney.
High Steens	OR-2-85F	65,940	980	820	64,140	Harney.
Blitzen River	OR-2-86E	52,060	170	0	51,890	Harney.
Little Blitzen Gorge	OR-2-86F	9,380	140	0	9,240	Harney.
Beaver Dam Creek	OR-3-27	19,500	80	0	19,420	Malheur
Camp Creek	OR-3-31	19,200	680	160	18,360	Malheur.
Cottonwood Creek	OR-3-32	8,700	160	40	8,500	Malheur.
Gold Creek	OR-3-33	13,600	680	0	12,920	Malheur.
Cedar Mountain	OR-3-47	33,600	2,160	0	31,440	Malheur.
Dry Creek	OR-3-53	23,500	960	0	22,540	Malheur.
Dry Creek Buttes	OR-3-38	51,800	1,920	0	49,880	Malheur.
Lower Owyhee Canyon	OR-3-110	75,300	1,400	0	73,900	Malheur.
Clarks Butte	OR-3-120	31,500	40	10	31,450	Malheur.
Jordan Craters	OR-3-128	27,900	340	0	27,560	Malheur.
Disaster Peak	OR-3-153/OR-2-78D	[1] 18,300	90	0	18,210	Malheur/Harney.
Oregon Canyon	OR-3-157	42,900	20	0	42,880	Malheur.
Owyhee Canyon	OR-3-195	[2] 190,700	10,020	0	180,680	Malheur.
South Fork	OR-5-33	19,631	240	0	19,391	Crook.
Sand Hollow	OR-5-34	8,791	700	0	8,091	Crook.
Gerry Mountain	OR-5-35	20,700	720	0	19,980	Crook.
Homestead	OR-6-2	8,075	560	0	7,515	Baker.
Total (27 areas)			30,440	1,070		

[1] Does not include acreage in contiguous WSA in Nevada.
[2] Does not include acreage in contiguous WSA in Idaho.

TABLE 3.—ELIMINATED WILDERNESS STUDY AREAS—CONTIGUOUS AREAS WITHOUT WILDERNESS CHARACTERISTICS

WSA name	Number	WSA acreage	County
Hawksie Walksie (Sage Hen Hills).	OR-1-146B	8,520	Harney.

[FR Doc. 83-7759 Filed 3-25-83; 8:45 am]
BILING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

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 the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,
Secretary.

For Status, Please Call Team 2 at 202-275-7030

Volume No. OP2-FC-133

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

No. MC-FC-81314. By decision of March 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 1, approved the transfer to Eastern Mass. Movers, Inc., Brewster, MA, of Cerficates Nos. MC-64402 and Sub-1, issued October 4, 1956, and November 13, 1981, respectively, to Rainbow Piano & Furniture Movers, Inc., North Attleboro, MA, authorizing the transportation of household goods between Attleboro, North Attleboro, Franklin, and Plainville, MA, on the one hand, and, on the other, New York, NY, and points in ME, CT, NH, RI, and VT; and between those points in MA East of the Connecticut River and RI, on the one hand, and, on the other points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, OH, WV, VA, KY, TN, NC, SC, MS, AL, GA, FL, and DC. Representative: Noreen B. Davis, 78 South Street, P.O. Box 777, Wrentham, MA 02093.

No. MC-FC-81306. By decision of March 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 1, approved the transfer to Lee Line, Corp., Red Wing

MN, of Certificates Nos. MC-102623 and subs. 2, 3, 4, and 5, issued August 16, 1965, June 17, 1976, July 21, 1976, November 20, 1981, and March 3, 1983, respectively, to Lee Line, Inc., Red Wing, MN, authorizing the transportation of passengers, in charter and special operations, beginning and ending at points in ND, SD, MN, WI, IA, IL, IN, and OH, and extending to points in the U.S. (including AK but excluding HI). Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402.

For Status, Please Call Team 4 at 202-275-7669.

Volume No. OP4-FC-165

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

No. MC-FC-81272, filed March 2, 1982. By decision of March 21, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to CIRCLE AUTO CRAFT, INC., d.b.a. AUTO TRANSPORT & LEASING CO., INC., of Revere, MA, of Certificate No. MC-150196, issued November 4, 1981 to AUTO CITY, INC., whose name was changed February 25, 1982, to AUTO TRANSPORT & LEASING CO., INC., of Revere, MA, authorizing the transportation of *Transportation equipment*, between Boston, MA, on the one hand, and, on the other, 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 western boundary of Itasca County, MN, and then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada. Representative: John A. Maiona, 294 Washington St., Boston, MA 02108, (617) 426-0089.

[FR Doc. 83-7601 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-134]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided March 18, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restriction or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h)

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,
Secretary.

Please Direct Status Inquiries to Team 2, at (202) 275-7030.

MC 68123 (Sub-10X), filed February 22, 1983. Applicant: MARIE R. CAVALLERI, d.b.a. M & J TRUCKING COMPANY, P.O. Box 3183, 20 Atlantic St., Bridgeport, CT 06605. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413-781-8205. Lead and Sub-Nos. 2, 5F, and 7F: (1) Broaden the commodity description from sugar to food and related products (Lead); from scrap metal to waste or scrap material not identified by industry producing (Sub 2); from zinc and zinc alloys to metal products (Sub 5F); from iron and steel, electrical conduit, pipe and accessories to building materials, metal products and electrical equipment (Sub 7F); (2) broaden the territorial scope from Newark, NJ to Essex County, NJ; and points within 25 miles of Newark, NJ to points in Hudson, Essex, Bergen Passaic, Morris, Middlesex, Somerset, Union, and Monmouth Counties, NJ (Lead); from Watervliet, NY to Albany County, NY (Sub 2); from Josephstown, PA to Beaver County, PA (Sub 5F); from Brookfield, OH to Trumbull County, OH (Sub 7F); (3) eliminate the facilities limitation (Subs 2 and 5F); eliminate the territorial restriction (Sub 2); and (4) change one-way to radial authority (Subs 2, 5F, and 7F). By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC 115523 (Sub-208X), filed February 28, 1983. Applicant: CLARK TANK LINES COMPANY, 1450 N. Beck St., Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant), 801-355-6040. Sub 208 certificate: broaden commodity description from chemicals to "chemicals and related products", and petroleum to "petroleum, natural gas and their products". By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

[FR Doc. 83-7602 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

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-248

The following applications were filed in Region I. Send protests to Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 37049 (Sub-1-2TA), filed March 11, 1983. Applicant: ARROW BUS COMPANY, INC., 88 Main Street, Garfield, NJ 07026. Representative: Edward F. Bowes, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract Carrier:* irregular routes: *Passengers* between Carlstadt, NJ and New York, NY, under continuing contract(s) with B. Blumenthal & Co., Inc., Carlstadt, NJ. Supporting shipper: B. Blumenthal & Co., Inc., 140 Kero Road, Carlstadt, NJ 07072.

MC 166838 (Sub-1-1TA), filed March 16, 1983. Applicant: CFT SYSTEMS, INC., 175 Oakhurst Street, Lockport, NY 14094. Representative: John C. Brimo (same as applicant). *Contract Carrier:* irregular routes: *Those products dealt in by drug stores, and those products used in hospitals,* between points in NY and PA under continuing contract(s) with Ellicott Drug Company, Cheektowaga, NY. Supporting shipper: Ellicott Drug Company, 1650 Walden Avenue, Cheektowaga, NY 14225.

MC 141603 (Sub-1-2 TA), filed March 9, 1983. Applicant: CANADIAN PACIFIC EXPRESS & TRANSPORT, LTD., Suite E-330, Atria North, 2255 Sheppard Avenue, East, Willowdale, Ontario, CD M2J 4Y1. Representative: Harry J. Jordan, Esq., Macdonald, McInerny, Guandolo & Jordan, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036. *General commodities, except Class A and B explosives, household goods, and commodities in bulk,* between points of entry on the U.S./CD border in Kittson County, MN, and Thief River Falls, MN. Supporting shipper: Soo Line Railroad Co., P.O. Box 530, Minneapolis, MN 55440.

MC 150121 (Sub-1-4 TA), filed March 14, 1983. Applicant: DVJ TRUCK LINES, INC., One Ridge Road, Monmouth Junction, NJ 08852. Representative: Capro & Hilliard, Esqs., 1585 Morris Avenue, Union, NJ 07083. *Contract carrier:* irregular routes: *Switches or circuit breakers, plates, electric or outlet, steel switch boxes* between NJ, NY, PA, CT, MA, VA, MD, DE, RI, DC, NC, SC, GA, FL, TN, MS, AL and LA, under continuing contract(s) with Crouse-Hinds Company, East Hartford, CT. Supporting shipper: Crouse-Hinds Company, 16 Eastern Park Road, East Hartford, CT 06108.

MC 166737 (Sub-1-4 TA), filed March 11, 1983. Applicant: MARSHALL'S EXPRESS, INC., 80 Southfield Avenue, Stamford, CT 06902. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Chemicals or allied products STCC 28 and appliances* between Stamford, CT, on the one hand, and, on the other, points in the U.S. except AK and HI, under continuing contract(s) with Clairol, Inc., Stamford, CT. Supporting shipper: Clairol Incorporated, 1 Blachley Road, P.O. Box 10213, Stamford CT 06922.

MC 91725 (Sub-1-1 TA), filed March 11, 1983. Applicant: MANY'S EXPRESS INC., Route 9 and Croton River Bridge, P.O. Box 328, Ossining, NY 10562. Representative: Jack K Many (same as applicant). *Paper, paper products, and computer tapes,* between points in Westchester County, NY, on the one hand, and on the other, Mechanicsburg, PA. Supporting shipper: Vista Business Products Inc., 505 White Plains Road, Tarrytown, NY 10591.

MC 164562 (Sub-1-1 TA), filed March 11, 1983. Applicant: PRINTERS TRANSPORT LTD., 2420 Speers Road, Oakville, Ontario, CD L6L 5M2. Representative: Robert D. Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Printed matter* between ports of entry on the International Boundary line between the U.S. and CD in NY and MI, on the one hand, and, on the other, points in Erie, Niagara and Monroe Counties, NY, and Detroit, MI and points within its Commercial Zone, under continuing contract(s) with ASL Traffic Management Limited of Oakville, Ontario, CD. Supporting shipper: ASL Traffic Management Limited, 2420 Speers Road, Oakville, Ontario, CD L6L 5M2.

MC 159581 (Sub-1-2TA), filed March 15, 1983. Applicant: TRANS CARGO, INC., P.O. Box 1019, Turnersville, NJ 08012. Representative: Edward L. Ciemniecki, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106. *Furniture and store fixtures,* between the facilities of Hussmann Refrigerator Co. in Cherry Hill, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting Shipper: Hussmann Refrigerator Co., P.O. Box 507, Cherry Hill, NJ 08003.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street NE., Atlanta, GA 30309.

MC 166548 (Sub-3-1TA), filed March 15, 1983. Applicant: SPRINGFIELD TRUCKING, INC., P.O. Box 818, Livingston, AL 35470. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345. *Paperboard,* from Livingston, AL, to all points in GA, LA, MS, and TX. Supporting Shipper: Custom Sheeting Corporation, P.O. Box EG, Livingston, AL 35470.

MC 2934 (Sub-3-70TA), filed March 16, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *Household goods and trade show materials,* between points in the U.S. (except AK and HI), under continuing contracts with National Medical Enterprises, Inc., 11620 Wilshire Boulevard, Los Angeles, CA 90025. Supporting Shipper: National Medical Enterprises, Inc., 11620 Wilshire Boulevard, Los Angeles, CA 90025.

MC 166820 (Sub-3-1TA), filed March 16, 1983. Applicant: GREENVILLE TRUCK LEASING CO., INC., Route 5, Box 452, Simpsonville, SC 29681. Representative: Mitchell King, Jr., Esq., P.O. Box 5711, Greenville, SC 29606. *Contract* carrier: irregular: *general commodities (except classes A and B explosives, household goods and commodities in bulk)* between points in IL, IN and OH, on the one hand, and, on the other, points in GA, NC, SC and TN under continuing contract(s) with Globe Industries, Inc. Supporting shipper: Globe Industries, Inc., 2638 E. 126th Street, Chicago, IL 60633.

MC 166661 (Sub-3-1TA), filed March 16, 1983. Applicant: RACE XPRESS, INC., 320 White Oak Drive, Buford, GA 30518. Representative: Roger Crabb (same address as applicant). *Food and Related Products* from Atlanta, GA to points in FL. Supporting Shipper: Nabisco Brands USA, Parsippany, NJ 07054.

MC 2900 (Sub-3-40TA), filed March 16, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as above). *Contract carrier:* irregular; *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with Newman's, Inc. Supporting Shipper: Newman's, Inc., 7500 E. Reading Place, Tulsa, OK 74104.

MC 2934 (Sub-3-71TA), filed March 16, 1983. Applicant: AERO

MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *Household goods,* between all points in the U.S. (including AK and HI), under continuing contracts with State Farm Mutual Automobile Insurance Company, One State Farm Plaza, Bloomington, IL 61701. Supporting Shipper: State Farm Mutual Automobile Insurance Company, One State Farm Plaza, Bloomington, IL 61701.

MC 166783 (Sub-3-1TA), filed March 15, 1983. Applicant: PEAVY FARM SERVICE, INC., Box 545, Camilla, Georgia 31730. Representative: Dennis Dozier (same address as above). *Contracting carrier:* Irregular: *Liquid fertilizer solutions* from Columbia, AL to GA. Supporting shipper: Chemical Enterprises, Inc., 8582 Katy Freeway, Suite 202, Houston, TX 77024-1874.

MC 31389 (Sub-3-20TA), filed March 15, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27154. Representative: Daniel R. Simmons (same as Applicant). *Contract carrier; Irregular: General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between Chicago, IL, on the one hand, and, on the other, points in the U.S. under continuing contract or contracts with Magid Glove and Safety Co., of Chicago, IL. Supporting shipper: Magid Glove and Safety Co., 2060 No. Kolmar, Chicago, IL 60639.

MC 166187 (Sub-3-1TA), filed March 15, 1983. Applicant: W. L. STRENGTH, JR., d.b.a. PRATTVILLE TRANSPORTATION CO., 122 Oak Creek Circle, Prattville, AL 36067. Representative: Terry P. Wilson, 428 South Lawrence Street, Montgomery, AL 36104. *Contract carrier:* irregular: (1) *Paper machine clothing, and (2) materials, supplies, and equipment used in the production, sale and distribution of paper machine clothing,* between the facilities of Albany International Corp., Appleton Wire Division, in Montgomery, AL, on the one hand, and, on the other, points in the U.S., except AK and HI, under continuing contract(s) with Albany International Corp., Appleton Wire Division, of Montgomery, AL. Supporting Shipper: Albany International Corp., Appleton Wire Division, P.O. Box 1066, Montgomery, AL 36098.

MC 166785 (Sub-3-1TA), filed March 15, 1983. Applicant: CARL A KECK, P.O. Box 45, Arthur, TN 37707. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Coal,* between points in KY, TN and VA, on the one hand, and, on the other, points in AL, GA, IN, KY, NC, OH, SC, TN and VA. Supporting shipper: John Farmer Coal Sales, Inc., P.O. Box P, Norris, TN 37829.

MC 147877 (Sub-3-1TA), filed March 11, 1983. Applicant: SANFORD M. HEDRICK, JR., d.b.a. HEDRICK TRUCKING CO., P.O. Box 769, Darlington, SC 29532. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract carrier;* Irregular. *Metal containers, and materials, equipment and supplies used in the manufacture and distribution thereof,* between points in Darlington County, SC, on the one hand, and, on the other, points in IN and WI, under continuing contract(s) with Palmetto Can Corp., of Hartsville, SC. Supporting shipper: Palmetto Can Corp., P.O. Box 1321, Hartsville, SC 29550.

MC 114107 (Sub-3-3TA), filed March 11, 1983. Applicant: RONALD ELLIOTT CLARK, d.b.a. CLARK'S TRUCKING AND EXCAVATING, 14201 Bohannon Lane, Louisville, KY 40272. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Contract Carrier:* Irregular: *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 Louisville Ladder Division of Emerson Electric Co., Louisville, KY. Supporting shipper: Louisville Ladder Division of Emerson Electric Co., 1163 Algonquin Parkway, Louisville, KY 40208.

MC 160461 (Sub-3-2TA), filed March 11, 1983. Applicant: LLOYD HOOD, d.b.a. HOOD ENTERPRISES, Rt. 1, Jasper, TN 37347. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Contract carrier;* irregular routes; *Metal products, materials handling equipment, and agricultural feeding equipment* between Chattanooga, TN and points on and east of the Mississippi River under continuing contract(s) with Cumberland Corporation, Chattanooga, TN. Supporting Shipper: Cumberland Corporation, P.O. Box 1446, Chattanooga, TN 47401.

MC 2934 (Sub-3-68 TA), filed March 11, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC. 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *X-Ray equipment and accessories,* between points in the United States (including AK and HI), under continuing contracts with Technicare Corporation, 29100 Aurora Road, Solon, OH 44139. Supporting Shipper: Technicare Corporation, 29100 Aurora Road, Solon, OH 44139.

MC 166732 (Sub-3-1 TA), filed March 11, 1983. Applicant: MURPHY'S TRUCKING, P.O. Box 12, Coker Creek, TN 37314. Representative: Kenneth Murphy (same address as applicant). *Such commodities as are used, dealt in, or distributed by a manufacturer and distributor of paper and paper products* between the facilities of Bowater Southern Paper Company at Calhoun, TN and points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Bowater Southern Paper Company, U.S. Hwy 11, Calhoun, TN 37309.

MC 147169 (Sub-3-4 TA), filed March 11, 1983. Applicant: SERVICEWAY MOTOR FREIGHT, INC., P.O. Box 243, Alcoa, TN 37701. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219. *Metal containers and materials and supplies used in the manufacture and distribution of containers* between Lee Co., SC and Baltimore Co., MD. Supporting shipper: National Can Corporation, 8101 Higgins Road, Chicago, IL 60631.

MC 31389 (Sub-3-19 TA), filed March 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27154. *Contract Carrier: Irregular: General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in the U.S., under continuing contract or contracts with Montgomery Ward & Co., of Chicago, IL. Supporting Shipper: Montgomery Ward & Co., Montgomery Ward Plaza, Chicago, IL 60671.

MC 157204 (Sub-3-4 TA), filed March 11, 1983. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Road, Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Maintenance Supplies,* from Irving, TX to Birmingham, AL and Tampa, FL. Supporting Shipper: Mullco Brokerage Company, Route 2, Box 110, Terrell, TX 75160.

MC 149283 (Sub-3-2TA), filed March 11, 1983. Applicant: HAYWARD TRUCKING, INC., 6549 Robinson Road, Jacksonville, FL 32217. Representative: Norman J. Bolinger, Esq., 3100 University Blvd., S., Ste 225, Jacksonville, FL 32216. *Food and related products,* between Jacksonville and Gainesville, FL, on the one hand, and, on the other, points in

AL, AR, GA, MD, MO, NC, SC, and TX; and *particleboard, fiberboard, plywood, hardboard,* and *gypsum board,* between Jasper, Fl, and Eufala, AL; Eatonton, GA; Long Island, NY; and Aberdeen, NC. Supporting shippers: Beaver Street Fisheries & Wholesale Food, Inc., P.O. Box 41430, Jacksonville, FL 32203 and General Laminates Corp., N.E. 1st Avenue, Jasper, FL 32052.

MC 2934 (Sub-3-69TA), filed March 11, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *Household goods,* between points in the U.S. (excluding AK and HI), under continuing contracts with Burlington Northern Railroad, 176 E. 5th Street, St. Paul, MN 55101. Supporting shipper: Burlington Northern Railroad, 176 E. 5th Street, St. Paul, MN 55101.

MC 31389 (Sub-3-18TA), filed March 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27154. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27154. *Contract Carrer: Irregular: General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between Chicago and Lincolnwood, IL and Hartford, WI on the one hand, and, on the other, points in the U.S. under continuing contract or contracts with Bell and Howell Company, of Chicago, IL. Supporting shipper: Bell and Howell Company, 7100 North McCormick Rd., Chicago, IL 60645.

MC 046797 (Sub-3-2TA), filed March 11, 1983. Applicant: PHILLIPS TRUCK LINE, INC., 773 East Street, Memphis, TN 38174-0965. Representative: Lee A. Hyde III (same address as applicant). *Cartons of Finished Woven Piece Goods In The Original Piece* from Plant Site Crompton-Osceola Co., Osceola, AR to Kellwood Plant, Calhoun City, MS. Supporting consignee: Kellwood Company, Calhoun City, MS.

The following applications were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 118776 (Sub-4-9TA), filed February 4, 1983. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Resin compound in bulk, from Janesville, WI to Canton, MO. Supporting shippers: Freedom Plastic Company, P.O. Box 1488, Janesville, WI 53547.

MC 145481 (Sub-4-11), filed March 9, 1983. Applicant: HOOSIER TRANSPORTATION SYSTEM, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202-3357. *Contract carrier,* irregular routes: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the facilities of Clairol, Inc. at Stamford, CT, Camarillo, CA, and Gadsen, AL on the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Clairol, Inc. of Stamford Ct, for 270 days. Supporting shipper: Clairol Inc., P.O. Box 10213, Stamford, CT 06922.

MC 151404 (Sub-4-6TA), filed March 10, 1983. Applicant: NORTHLAND PRODUCE, INC., 4350 Lincoln Rd., Holland, MI 49423. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Foodstuffs and commodities used by restaurants, fast food outlets and food commissaries,* between Grand Rapids, MI, on the one hand, and, on the other, points in IL, MI, OH, WI, IN, KY, MO, PA and IA, for 270 days. Supporting shipper(s): Gordon Food Service Inc., 333-50th St., S.W., P.O. 1787, Grand Rapids, MI 49501.

MC 166227 (Sub-4-1TA), filed February 14, 1983. Applicant: ATLAS DISTRIBUTION SERVICES, INC., Route 2, Box 210G, Bethalto, IL 62010. Representative: Michael R. Solomon (same address as applicant). *General Commodities (except Classes A and B explosives, household goods, commodities in bulk), between St. Louis, Missouri and its Commercial zone on the one hand, and on the other, points in AR, IL, IN, IA, KA, KY, MI, MO, OH, TN, WI.* Supporting shippers: Central Hardware Co., 111 Boulder Ind. Dr., Bridgeton, MO 63044; Falcon Products, Inc., 9387 Dielman Ind. Drive, St. Louis, MO 63132; Estech, Inc., P.O. Box 338, E. St. Louis, IL 62202; McCann's Piggyback Consolidation, Inc., 1481 Manchester Road, Ellisville, MO 63011; Purex Corporation, 6506 North Broadway, St. Louis, MO 63147. (5 supporting shippers.)

MC 166725 (Sub-4-1TA), filed March 10, 1983. Applicant: F. D. LUCAS ENTERPRISES, INC., P.O. Box 367, Marengo, IN 47140. Representative: Doyle G. Owens, P.O. Box 7735. Golf Cars, motorized, and Golf Car Parts, between the Commercial Zones of Fountainville, PA and Deerfield, WI, on the one hand, and on the other, the Commercial Zones of Madison, WI, Augusta, GA, Portland, OR, Lansing, MI, Kassimmie, FL, Los Angeles, CA, Swansea, MS, Spokane, WA, Seattle, WA, Mt. Pocono, PA, Gaithersburg, MD, Orlando, FL, Ft. Worth, TX, Houston, TX, San Antonio, TX, Clifton, NJ, Fountainville, PA, Southington, OH, Sherman, NY, Worschester, MA, Liverpool, NY, and Grand Rapids, MI. Supporting shippers: Columbia Car Corporation, P.O. Box 3069, Madison, WI 53704; and Golf Cars, Inc., Box 247, Buckingham, PA 18912.

MC 166676 (Sub-4-1TA), filed March 9, 1983. Applicant: "EXPO-TRANSPORTATION" & SERVICES, INC., 417 Pleasant Drive, Schaumburg, IL 60172. Representative: Anthony E. Young, Ltd., 29 South LaSalle Street, Suite 350, Chicago, Ill 60603, 312/782-8880. Such commodities as are used or dealt in by exhibitors of machinery, equipment, tools and trade shows. Between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in CA, MN, WI, IN, MI, OH, PA, NY, NJ, MA, CT, RI, NV, IA, MO, KY, TN, TX, KS, and OK. Restricted to traffic originating at or destined to trade shows and facilities used by United Expositions. Supporting shipper: United Exposition, 1555 West 44th Street, Chicago, IL 60609.

MC 166726 (Sub-4-1TA), filed March 10, 1983. Applicant: CHRIS A. THOMASON, d.b.a. REX "N" DON VAN LINES, P.O. Box 217, Charleston, IL 61920. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., P.O. Box 5039, Springfield, IL 62705. *Contract* irregular: *New freight trailers* between Charleston, IL, on the one hand, and St. Louis, MO and Indianapolis, IN, on the other hand. An underlying ETA seeks 120 days' authority. Supporting shipper: Trailmobile, Inc., 200 East Randolph Drive, Chicago, IL 60601.

MC 166727 (Sub-4-1TA), filed March 10, 1983. Applicant: EDWARDS DISTRIBUTORS, INC., 215 Waukechon Street; P.O. Box 126, Shawano, WI 54166. Representative: Nancy J. Johnson, Attorney, 103 East Washington Street, Box 218, Crandon, WI 54520. *Dairy products* between the Town of Ashwaubenon, Brown County, WI and points in the Upper Peninsula of MI. Supporting shipper: Morning Glory Division, Consolidated Badger Cooperative.

MC 15735 (Sub-4-62TA), filed March 14, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Cardio-Pulmonary Systems and Blood Analyzers and components and such commodities as are dealt in and utilized*

by manufacturers and distributors thereof between points in Salt Lake City, Utah, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) under a continuing contract with Becton Dickinson and Company. Supporting shipper: Becton Dickinson and Company, 175 W. 2950 South, Salt Lake City, Utah 84115.

MC 133922 (Sub-4-1TA), filed March 14, 1983. Applicant: TAURUS TRANSPORT, INC., P.O. Box 5673, Lafayette, IN 47903. Representative: Janice Alford (same as applicant). *General Commodities*—(except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI). Supporting shipper: Solem Industries, Inc., 5824 D Peachtree Corners East, Norcross, GA 30092.

MC 135208 (Sub-4-3TA), filed March 14, 1983. Applicant: GEORGE L. BIGELOW TRUCKING, INC., 135 Wright Street, P.O. Box 421, Delavan, WI 53115. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. *Plastic pipe and plastic pipe fittings* from the facilities of Freedom Plastics, Inc. at or near Janesville, WI to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, NY, ND, OH, PA, SD, TN, and WV. An underlying ETA seeks 120 days authority. Supporting shipper: Freedom Plastics, Inc., 210 South Arch, Janesville, WI 53545.

MC 139667 (Sub-4-8TA), filed March 14, 1983. Applicant: C. SCHMIDT TRUCKING CO., INC., 101 West Sanger, Salem, IL 62881. Representative: Brenda Schmidt, 906 Meadow Lane, Salem, IL 62881, (618) 548-5823. *Printed matter, pulp, paper and related products* from points in IL to points in KY, TN, AR, TX, LA, AL, MS, GA, FL, NC, and SC. An underlying ETA seeks 90 days authority. Supporting shippers: Star Paper Co., 5392 S. State St., Chicago, IL 60609, Alton Packaging Corporation, 401 Alton St., Alton, IL 62002, S & H Paper Co., Inc., P.O. Box 7280, Chicago, IL 60680.

MC 143576 (Sub-4-2TA), filed March 14, 1983. Applicant: DONALD ORR & SONS, Route 37, West Frankfort, IL 62896. Representative: Robert Orr, Route 37, West Frankfort, IL 62896, (618) 932-2561. Transporting *Coal and coal products* between points in IL, MO, IN, and KY. Supporting shipper: Goldenrod Coal Sales, 427 S. Granger, Harrisburg, IL 62946.

MC 157265 (Sub-4-2TA), filed March 15, 1983. Applicant: D & B TRUCKING, INC., 3333 South Cicero Avenue, Cicero, IL 60605. Representative: Philip A. Lee, 120 West Madison, Suite 618, Chicago, IL 60602. *Metal* and *Metal Alloys*, and *Copper Sheet; Vinyl Floor Tile; Lamps, Chandeliers*, and *Lighting Fixtures; Pneumatic Tires, Batteries, Tubes* and *Industrial Hose; Railroad Maintenance Materials; Diffusers; Gravity Feed Shelving* and *Automatic Case Openers; Hooks, Nails*, and *Adhesives; Office Furniture* and *Office Furnishings; Plastic* and *Rubber Articles; Resistors* (Electronic parts); *Portable Lamps; Industrial Art Supplies; Fire Hydrants* and *Protective Valves; Paint, Cleaning Compounds* and *Chemicals; Athletic Equipment; Foodstuffs; Paper Sealing* and *Masking Tape; Ballasts; Tapes* and *Cassettes;* and *Computer Media.* Between points in IL, IN, IA, KY, MI, MN, MO, OH, ND, SD, WI, AZ, CA, NM, OK, and TX. Supporting shippers: There are 21.

MC 163794 (Sub-4-3TA), filed March 14, 1983. Applicant: G. G. BARNETT TRANSPORT, INC., 507 York Street, Beaver Dam, WI 53916. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Foundry products and materials, equipment and supplies used in the manufacture, sale and distribution of such commodities* between Dodge County, WI on the one hand and on the other hand points within WY. Supporting shipper: Kirsh Foundry, Inc., 125 Rowell Street, Beaver Dam, WI 53916.

MC 166606 (Sub-4-1TA), filed March 14, 1983. Applicant: SAMUEL A. J. COLEMAN d.b.a. COLEMAN'S WRECKER SERVICE, 979 Badder, Troy, MI 48084. Representative: Robert D. Schuler, 100 West Long Lake Road—Suite 102, Bloomfield Hills, MI 48013. *Wrecked, disabled, repossessed, abandoned, impounded and replacement motor vehicles and wheeled vehicles*, between Wayne, Oakland, Macomb Counties, MI, on the one hand, and, on the other, various points in the U.S. except AK, and HI. There are three supporting shippers.

MC 166789 (Sub-4-1TA), filed March 14, 1983. Applicant: HOWIE TRUCKING, Box 71, White Owl, SD 57792. Representative: Ron Howie (Same address as applicant), 605-985-5440. *Transporting Lumber and Building Materials* between points in SD on the one hand and on the other hand to points in MT, CO, WY, ND, and NE. Supporting shipper: Diamond International Corp., 3rd Omaha, P.O. Box 1200, Rapid City SD 57709.

MC 166790 (Sub-4-1TA), filed March 14, 1983. Applicant: BOOTS TRANSPORT, INC., 10 South Bridge Street, Markesan, WI 53946. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Meat and meat products* between Minong, WI, on the one hand, and, on the other, Chicago, IL, St. Cloud and Minneapolis, MN and points in their respective commercial zones. Supporting shipper: Link Industries, Inc., P.O. Box 397, Minong, WI 54859.

MC 166791 (Sub-4-1TA), filed March 14, 1983. Applicant: SIKORA & WILSON, INC. d.b.a. EAST WEST EXPRESS, 231 Frontage Road #15, Burr Ridge, IL 60521. Representative: Don A. Larson, 231 Frontage Road #15, Burr Ridge, IL 60521. *General commodities*, between points in the states of CA, GA, IL, NV, NJ, TN and all points in the United States. Supporting shippers: There are 6 in support.

MC 166792 (Sub-4-1TA), filed March 14, 1983. Applicant: WENDELIN BACHMEIER d.b.a. BACHMEIER TRANSFER, Box 527, 507 6th, Devils Lake, ND 58301. Representative: Wendelin Bachmeier (same as above). *General commodities* from Fargo, ND, to Ramsey County, Benson County, and Nelson County, all in the State of ND. Supporting shiper: Firestone Store, 420 3rd St., Devils Lake, ND 58301.

MC 15735 (Sub-4-64TA), filed March 16, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. Contract irregular: *Household goods*, between points in the United States, (except AK and HI) under a continuing contract with The Mountain States Telephone & Telegraph Co. Supporting shipper: The Mountain States Telephone & Telegraph Co. 3033 N. Third St. Phoenix, AZ 85012.

MC 15735 (Sub-4-65TA), filed March 16, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. Contract irregular: *Household goods*, between points in the United States, (except AK and HI) under a continuing contract with Texas Instruments, Inc., of Dallas, Texas. Supporting shipper: Texas Instruments, Inc., P.O. Box 226015, Mail Station 403, Dallas, TX 75266.

MC 113855 (Sub-4-10TA), filed March 16, 1983. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road S.E., Rochester, MN 55903. Representative: Leonard L. Bennett, 2450 Marion Road S.E., Rochester, MN 55903. *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI), under a continuing contract(s) with Oerlikon Motch

Corporation and its affiliates and subsidiaries. Supporting shipper: Oerlikon Motch Corporation, 1250 East 222nd Street, Cleveland, OH 44117.

MC 155942 (Sub-4-2TA), filed March 16, 1983. Applicant: WILLIAM M. LAWSON, d.b.a. OVERLAND CONSTRUCTION SERVICES, 28634 Hampton, Madison Heights, MI 48071. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. *Contract* irregular: *charcoal and charcoal products*, from the facilities of Floyd Charcoal Company, located at or near Salem, MO, to Detroit, Flint, and Bridgeport, MI, and the commercial zones thereof, under a continuing contract(s) with Floyd Charcoal Company. Supporting shipper: Floyd Charcoal Company, 1149 S. Main St., Plymouth, MI 48170.

MC 166842 (Sub-4-1TA), filed March 16, 1983. Applicant: CHARLES P. O'DELL d.b.a. EAST WEST MOTOR EXPRESS, 1705 Morningside Dr., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, Phone: 605-343-4036. *Building Materials; Contractors' materials, equipment and supplies; metal products; and prefabricated buildings* between points in CO, MT, NE, ND, SD, and WY on the one hand, and on the other hand, points in CA, CO, ID, IL, IN, IA, KS, MN, MT, NE, ND, OH, OK, OR, SD, TX, WA, WI and WY. Supporting shippers: Robbins & Stearns Lumber Co. of Rapid City, SD and North Central Supply, Inc. of Rapid City, SD.

MC 15735 (Sub-4-63TA), filed March 16, 1983. Applicant: ALLIED VAN LINES, INC., 1220 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Computer Systems, Equipment and materials, parts and supplies used in the manufacture, repair and installation of computer equipment* between points in Sunnyvale and Woodland Hills, CA, on the one hand, and, on the other, points in the United States, under a continuing contract with Vector General, Inc., of Woodland Hills, CA. Supporting shipper: Vector General, Inc., 21300 Oxnard St., Woodland Hills, CA 91367.

MC 113751 (Sub-4-17TA), filed March 16, 1983. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia Streets, Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Food and related products and such commodities as are dealt in by retailers of general merchandise* between points in the U.S. (except AK and HI). Supporting shippers: Super Valu Stores, Inc., P.O. Box 990, Minneapolis, MN 55440, and U.S. Cold Storage Division, American Consumer Industries, Inc., 8424 West 47th Street, Lyons, IL 60534.

MC 141753 (Sub-4-1TA), filed March 16, 1983. Applicant: G. P. SULLIVAN COMPANY, 1808 South Laramie Avenue, Cicero, IL 60650. Representative: Karl L. Gotting, 12 Bank of Lansing Building, Lansing, MI 48933, (517) 482-2400. *General commodities* (except classes A and B explosives, household goods and commodities in bulk) between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in IA, MO, MN, OH, MI, KY, NE and IN. An underlying ETA seeks 120-day authority. Supporting shippers: Coach & Car Equipment Company, 1951 Arthur Ave., Elk Grove Village, IL 60007; Universal Furniture Industries, Inc., DV, 7330 Santa Fe Drive, Hodgkins, IL 60525.

MC 151927 (Sub-4-3TA), filed March 16, 1983. Applicant: COLORADO & EASTERN, INC., 4839 W. 128th Place, Alsip, IL 60658. Representative: J. H. McGuire (same as above). *Transporting food and related products* (except in bulk), between points in WI and points in the U.S. (except AK and HI). Supporting shipper: Friday Canning Corporation, P.O. Box 129, New Richmond, WI 54017.

MC 154643 (Sub-4-2TA), filed March 16, 1983. Applicant: KLINLK TRUCKING, INC., Route 1, Box 345, Pleasant Lake, IN 46779. Representative: Robert B. Hebert, Miller, Faires, Herber & Woddell, P.C., Attorneys at Law, One Indiana Square, Suite 1600, Indianapolis, IN 46204, (317) 632-6262. *Fertilizer:* From Morral, Elgin and Harrod, OH to points in MI and IN. Supporting shipper: Sohio Chemical Company, 1540 Rockefeller Bldg., 614 Superior Ave., Cleveland, OH 44113.

MC 163395 (Sub-4-3TA), filed March 16, 1983. Applicant: DAVID A. McFARLAND, d.b.a. BLACK HAWK TRANSPORT, Hereford Route, Box 46, Sturgis, SD 57785. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, Phone: 605-343-4036. *Feldspar, Quartz, Mica, Micaceous Schist, Tantalum and Tin, Drilling Mud and Products of these minerals* from points in Custer and Pennington Counties, SD to points in the U.S. (except AK and HI). An underlying ETA application seeks 120 days authority. Supporting shipper: Pacer Corporation, P.O. Box 912, Custer, SD 57730.

MC 166043 (Sub-4-1TA), filed March 16, 1983. Applicant: DONALD R. SPENCE and TERRI L. SPENCE, d.b.a. KELDORN TRUCKING, 15135 Grant, Dolton, IL 60419. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60604. *Aluminum and aluminum dross* between Aurora, IL and Beloit, WI, on the one hand, and, on the other, points in IN and OH. Supporting shipper: Metal Exchange Corporation, 111 West Port Plaza, Suite 704, St. Louis, MO 63141.

MC 166316 (Sub-4-1TA), filed March 16, 1983. Applicant: LARRY D. BRODKORB, P.O. Box 264, Box Elder, SD 57719. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, Phone: 605-343-4036. *Contractor's Machinery, Equipment, Materials and Supplies* between points in AZ, MT, NM, OK, SD, WA and WY. Supporting shipper: American Line Builders, P.O. Box 104, Deaver, WY 82421. An underlying ETA seeks 120 days authority.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 005428 (Sub-5-2TA), filed March 14, 1983. Applicant: LYON VAN LINES, INC., P.O. Box 5011, Carrollton, TX 75006. Representative: J. B. Stuart. Contract irregular: *Household goods* between points in the United States, including AK and HI, under continuing contract(s) with EADS Moving Brokers of Santa Ana, CA. Supporting shipper: EADS Moving Brokers, Santa Ana, CA.

MC 61440 (Sub-5-19TA), filed March 15, 1983. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same as above). Contract, Irregular: *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 contracts with Kendavis Industries International, Inc. and its subsidiaries of Ft. Worth, TX.

MC 129134 (Sub-5-2TA), filed March 15, 1983. Applicant: CARLYLE VAN LINES, INC. d.b.a. SAFEWAY VAN LINES, P.O. Box 25, Warrensburg, Missouri 64093. Representative: Gerald Moore (same as applicant). *(1) Motorcycles, mopeds, all terrain vehicles & other powered recreational equipment, (2) Portable powered products, (3) accessories, components, supplies, and materials used in the sales, repair, manufacture or distribution of 1 & 2 above*, between points in Lincoln and Omaha, NE on the one hand, and, on the other, points in KS

and MO. Supporting shippers: Al's Incorporated, S. Hutchinson, KS Shernaman Enterprises, Inc., Warrensburg, Mo.

MC 142132 (Sub-5-4TA), filed March 14, 1983. Applicant: T. J. KERVIN LEASING, INC., P.O. Box 48, Winnfield, Louisiana 71483. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, Louisiana 71203. *Lumber and related articles, building materials, and materials and supplies used in the manufacturing thereof.* From facilities of Manville Forest Products Corporation located in Union County, AR, Union and Winn Parish, LA, Johns Manville Corporation (Roofing Division), Tarrant County, TX, Manville Building Materials, Corporation, Adams County, MS to points in the states of: AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MS, MO, NE, NM, OK, TN, and TX. Supporting shipper: Manville Forest Products Corporation, West Monroe, Louisiana.

MC 144449 (Sub-5-7TA), filed March 14, 1983. Applicant: A & A CONTRACT CARRIERS, A & A MOVING & STORAGE CO., P.O. Box 1592, Fort Worth, TX 76101. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, Irregular: *Uninterruptible power systems, backup systems, batteries, electrical switch gears, and related materials, equipment and supplies,* between points in the U.S., except AK & HI, under continuing contract(s) with International Power Machines Corp., Mesquite, TX. Supporting shipper: International Power Machines, Corp., Mesquite, TX.

MC 146504 (Sub-5-4TA), filed March 14, 1983. Applicant: LEO TRUCKING COMPANY, INC., P.O. Drawer F, Poteau, Oklahoma 74953. Representative: Greg E. Summy, 208 Century Center Plaza, 100 West Main St., Oklahoma City, Oklahoma 73102. *Dry fertilizer, in bulk,* between points in AR, CO, KS, LA, MS, MO, NE, NM, OK, TN and TX. Supporting shippers: Chem-Quip, Inc., Tulsa, Oklahoma and Neldecker Farm Service, Van Buren, Arkansas.

MC 148152 (Sub-5-18TA), filed March 15, 1983. Applicant: K & H TRUCKING, INC., 3301 S. Lamar St., Dallas, TX 75215. Representative: Edmond E. Payne (same as Above). *Scrap material, Metal Products and/or Materials, Equipment and Supplies* used in the processing of Scrap Material & Metal Products between points in the U.S. (except AK and HI). Restricted to shipments for the account of Aaron Ferer & Sons. Supporting shipper: Aaron Ferer & Sons, Omaha, NB.

MC 158419 (Sub-5-4TA), filed March 15, 1983. Applicant: ON TIME FREIGHT SYSTEMS, INC., P.O. Box 37722, Omaha, NE 68137. Representative: Steven K. Kuhlmann, 717-17th St., Suite 2600, Denver, CO 80202-3357. *Meat and meat products,* between Chicago, IL; Windom, MN; Hospers, Sioux City and Spencer, IA; Dodge City and Wichita, KS; St. Joseph, MO; Plainview and Amarillo, TX; and Sioux Falls, SD on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Nationwide Beef, Inc., Chicago, IL.

MC 166785 (Sub-5-1TA), filed March 15, 1983. Applicant: TWIN CITY PICK UP AND DELIVERY SERVICE, 2301 Bolton Street, Little Rock, Arkansas 72202. Representative: Ron Glass (same as applicant). Common; Irregular. Hospital supplies, repair parts for electric motors and assembled electric motors, valves, iron or steel, not plated; 3M electrical tapes, industrial tape, magnet wire, silicone, cable ties, press board, between points in AR and all points in the U.S. Supporting shippers: 4.

MC 166708 (Sub-5-1TA), filed March 14, 1983. Applicant: DEWELL WILLIAM HOSKINS d.b.a. HOSKINS TRUCK SERVICE, 5th and Vine Streets, Malvern, Arkansas 72104. Representative: Kay L. Matthews, 401 Pyramid Place, Little Rock, Arkansas 72201. *Transporting Lumber, Plywood, Wood Products, Poles and Piling* between points in AR, LA, MS, MO, OK, TN, and TX. Supporting shippers: Broadview Lumber Co., Inc., Carthage, MO, Walter M. Fields Lumber Co., Memphis, TN.

MC 61396 (Sub-5-26TA), filed March 18, 1983. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. Contract, irregular. *Cement* between the facilities of The Whitehall Cement Manufacturing Co., Inc. in Whitehall Township, Lehigh County, PA, on the one hand, and, on the other, points in CT, NY, VA, DE, NJ, MD and DC, under a continuing contract(s) with The Whitehall Cement Manufacturing Co., Inc. of Whitehall, PA. Supporting shipper: The Whitehall Cement Manufacturing Co., Inc. Whitehall, PA.

MC 79658 (Sub-5-12TA), filed March 18, 1983. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47711. Representative: Robert C. Mills, Michael L. Harvey, 1212 St. George Road, Evansville, IN 47711. Contract, irregular. *Household goods* between points in the U.S. (excluding AK and HI) under continuing contract(s) with Consolidated Foods Corporation, Chicago, IL.

MC 155796 (Sub-5-7TA), filed March 17, 1983. Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commercial Federal Tower, 2120 North 72nd Street, Omaha, NE 68124. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Contract;* Irregular. *Articles dealt in, sold and used by photography supply houses,* between the Commercial Zones of Windsor, CO; Chicago, IL; Los Angeles and San Ramon, CA; Chamblee, GA; Dayton, NJ; Dallas, TX; and Rochester, NY. Supporting shipper: Eastman Kodak Company, Rochester, NY.

MC 163215 (Sub-5-1TA), filed March 17, 1983. Applicant: TOWNE VAN LINES OF TEXAS, INC., P.O. Box 15306, Austin, TX 78761. Representative: Clayte Binion, 623 South Henderson, 2nd Floor Fort Worth, TX 76104. Contract; Irregular. *Copying and duplicating machines and supplies, parts and materials incidental thereto* between all points in TX, restricted to interstate or foreign commerce. Supporting shipper: Xerox Corporation, Arlington, TX.

MC 163220 (Sub-5-3TA), filed March 18, 1983. Applicant: UTILITY COMPANY, INC., P.O. Box 25216 Oklahoma City, OK 73125. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Petroleum products, in bulk, in tank vehicles* from Orange County, TX to points in OK. Supporting shipper: Dolese Bros. Company, Oklahoma City, OK.

MC 166670 (Sub-5-1TA), filed March 17, 1983. Applicant: DENNIS CENTLIVRE, d.b.a. C & M TRANSFER, 2338 High, Topeka, KS 66611. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. *General Commodities (except commodities in bulk, Classes A and B Explosives and Household Goods),* Between Topeka, KS, and Kansas City MO and points in their respective commercial zones. Supporting shipper: Nabisco Brands, Inc. Topeka, KS.

MC 166851 (Sub-5-1TA), filed March 17, 1983. Applicant: NICHOLS CONSTRUCTION CORPORATION, P.O. Box 2750, Baton Rouge, LA 70821. Representative: John Schwab, P.O. Box 3036, Baton Rouge, LA 70821. *Construction equipment and accessories thereto; plant process equipment including but not limited to vessels, exchangers, compressors, pumps, except pipe; electrical transformers; and, other commodities which because of their size or weight, require special handling or equipment,* from, to and between points in AL, FL, GA, LA, MS, and TX. Supporting shippers: 13.

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 138348 (Sub-6-1TA), filed March 14, 1983. Applicant: ATLAS TRAVEL TOURS, LTD., P.O. Box 4340, Whitehorse, Yukon Territory, CD Y1A 3T5. Representative: John R. Simms, Jr., 915 Pennsylvania Building, 425-13th Street, NW., Washngton, D.C. 20004. *Passengers,* between ports of entry on the international boundary line between the U.S. and CD, and Skagway, AK, over Klondike Highway 2, between the U.S.-Canadian boundary, and Skagway, AK, serving all intermediate points, for 270 days. An underlying ETA seeks 120 days authority. Suporting shippers: Yukon Visitors Association, 102-302 Steele St., Whitehorse, Yukon; Yukon Department of Tourism, Box 2703, Whitehorse, Yukon; TravAlaska Tours, 555 Fourth and Battery Bldg, Seattle, WA 98121; and Esploration Holidays and Cruises, 1500 Metropolitan Park Bldg, Seattle, WA 98101.

MC 52793 (Sub-6-29TA), filed March 16, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center Street, Hillside, IL 60162. Representative: David A. Gallagher (Same address as applicant). *Contract* irregular: *Household goods* between points in the U.S., except AK and HI. Restricted to traffic moving under continuing contract with Union Pacific Railroad Company for 270 days. Supporting shipper: Union Pacific Railroad Company, 1416 Dodge St., Omaha, NE 68179.

MC 166808 (Sub-6-1TA), filed March 14, 1983. Applicant: DUANE WENTZ d.b.a. D & D MOBILE HOME TRANSPORTING, E. 7215 Rutter, Spokane, WA 99206. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Mobile Homes* between Spokane County, WA and points in OR, WA, and ID for 270 days. Supporting shippers: North Country Capital Corporation, 4911 E Sprague Ave., Spokane, WA 99206; General Equities, Inc., d.b.a. Dye Hawley Mobile Homes, 4605 E. Sprague Avenue, Spokane, WA 99206; Strong Equities, Inc., d.b.a. Spokane Home Center, 4505 E. Sprague Avenue, Spokane, WA 99206; Mobile Corral, 5106 E. Sprague Avenue, Spokane, WA 99206.

MC 162971 (Sub-6-5TA), filed March 15, 1983. Applicant: DONALD R. LIND and NULLET L. SCHNEIDER, a Partnership, d.b.a. D&N TRUCKING, 19472 Yuma Pl., Castro Valley, CA 94546. Representative: Ronald C. Chauvel, Handler, Baker, Greene & Taylor, 100 Pine St., #2550, San Francisco, CA 94111. *Contract carrier,* irregular routes, *Food and kindred products,* between points in Bellingham, Seattle, Spokane, Woodinville and Tacoma, WA and Portland, Medford and Salem, OR, on the one hand, and, on the other, Richmond, CA and Phoenix, AZ under continuing contract with Mission Foods, for 270 days. Supporting shipper: Mission Foods, 380 Carlson Blvd., Richmond, CA 94804.

MC 160209 (Sub-6-1TA), filed March 16, 1983. Applicant: LAWLOR MOTOR EXPRESS, INC., d.b.a., PACKAGE DELIVERY EXPRESS, 23759 Eichler Road, Unit J, Hayward, CA 94545. Representative: Michael J. Stecher, 100 Bush Street, Suite 410, San Francisco, CA 94104. *Contract;* irregular, *Such commodities as are dealt in or used by department of food stores and materials and supplies* used in conducting such business between CA and Clark County, NV, for 270 days. Supporting shipper: Best Products Co., Inc., P.O. Box 26303, Richmond, VA 23260.

MC 162024 (Sub-6-2TA), filed March 15, 1983. Applicant: ROD TRANSPORT, INC., 2848 American Ave., Sacramento, CA 95833. Representative: Steven Rodriquez (same as applicant). *Pulp, Paper and Related Products* between points in Sacramento County, CA and Oakland, CA and San Francisco, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Keyes Fibre Company, 8450 Gerber Rd., Sacramento, CA 95828.

MC 164104 (Sub-6-6TA), filed March 14, 1983. Applicant: SITTER'S TRANSPORT LIMITED, 406 1st Ave., Kindersley, Saskatchewan, CD SOL 1SO. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. *Carbonated and flavored water* from ports of entry on U.S.-Canadian border at points in MT to points in AZ, CA, OR and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Renoir Water Multinational Ltd., Suite No. 3, 3640 26th St., NE, Calgary, Alberta, CD T1Y 4T7.

MC 166809 (Sub-6-1TA), filed March 15, 1983. Applicant: WILLIAM A. VAN WERVEN, 1909 Temon Road, Everson, WA 98247. Representative: William E. Seliski, 2 Commerce Street, POB 8255, Missoula, MT 59807. *Bituminous coal* from points on the U.S./Canada boundary in WA to Whatcom County, WA (foreign commerce only) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Columbia Cement Corporation, Manager of Purchases, P.O. Box 37, Bellingham, WA 98227.

MC 165427 (Sub-6-1TA), filed March 15, 1983. Applicant: R. WORRALL & SONS TRUCKING, INC., 8799 Jay Court, Arvada, CO 80003. Representative: Roy Warrall (same address as applicant). *Meat and Packinghouse Products,* from Denver, Ft. Morgan, and Sterling, Co, to points in IL, IN, and MO, restricted to facilities of Sterling Colorado Beef Company for 270 days. Supporting shipper: Sterling Colorado Beef Company, PO Box 487, Ft. Morgan, CO 80701.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7807 Filed 3-25-83; 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 carriage 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 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.

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 Inquires to Team 1, (202) 275-7992

Volume No. OP1-96

Decided: March 16, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 109780 (Sub-82A), filed March 2, 1983. Applicant: TRAILWAYS, INC., 1500 Jackson St., Dallas TX 75201. Representative: G. W. Hanthorn, (same address as applicant), (214) 655-7937). Transporting (1) *passengers*, in charter and special operations, between points in the U.S. (except HI), and (2) *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).

Note.—Applicant seeks to provide privately-funded charter and special transportation in (1) above. Applicant has also filed for authority under the non-fitness procedures docketed MC-109780 Sub 82B, published in the same Federal Register issue.

MC 136521 (Sub-4), filed March 8, 1983. Applicant: EXECUTIVE COURIER SERVICE, INC., 33 North East 27th St., P.O. Box 25123, Oklahoma City, OK 73125. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478-9808. 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 143881 (Sub-2), filed February 24, 1983. Applicant: HOTARD COACHES, INC., 716 Deckbar Ave., New Orleans, LA 70121. Representative: Leo C. Franey, 918-16th St., N.W., Washington, DC 20006, (202) 785-3700. 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 166461, filed February 28, 1983. Applicant: WILLIAM O. ROSE d.b.a., BILL ROSE TRUCKING, Box 1127, Cut Bank, MT 59427. Representative: William O. Rose (same address as applicant), (406) 873-4730. 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).

MC 166490, filed February 28, 1983. Applicant: MARIE C. SMITH d.b.a. T. R. I. ENTERPRISES, P.O. Box M 543, Landing NJ 07850. Representative: Marie C. Smith, (same address as applicant), (201) 398-7019. As a *broker*, of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166530, filed March 1, 1983. Applicant: BERT PETERSON, d.b.a. MIDWEST MARKETING, 10460 S. 13th St., Oak Creek, WI 53154. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (414) 764-1062. 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).

MC 166690, filed March 3, 1983. Applicant: KAL LEASING, INC., 425 Sugar Ave., Billings, MT 59107. Representative: John A. Elliott, 301 N. Schuyler, Kankakee, IL 60901, (815) 933-3375. Transporting *passengers*, in charter operations, beginning and ending at points in Yellowstone County, MT, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Volume No. OP1-98

Decided: March 18, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 140 (Sub-7), filed March 14, 1983. Applicant: AUCH-INTER-BOROUGH TRANSIT COMPANY, 3210-20 Spring Garden St., Philadelphia, PA 19104. Representative: David E. Thomas, 1012 Three Penn Center Plaza, Philadelphia, PA 19102, (215) 563-9600. 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 133500 (Sub-2), filed March 9, 1983. Applicant: CROWN MOVING & STORAGE INC. OF ILLINOIS, 8040 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, (202) 833-8884. Transporting *used household goods* for the account of the U.S. Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (including AK and HI).

MC 166620, filed March 7, 1983. Applicant: ROBINSON COACH COMPANY, 1528 Emerson, Evanston, IL 60201. Representative: Allan C. Zuckerman, 221 North LaSalle St., Suite 826, Chicago, IL 60601, (312) 641-5900. 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 166621, filed March 7, 1983. Applicant: VEM SERVICES, INC., 501 Oakland Ave., Villa Park, IL 60181. Representative: John L. Rogers, 7 South Dearborn St., Suite 1412, Chicago, IL 60603, (312) 726-5321). As a *broker* of *general commodities* (excpet household goods), between points in the U.S.

MC 166650, filed March 8, 1983. Applicant: V. T. TRANSPORTATION, INC., 2280 82nd St., Brooklyn, NY 11214. Representative: Sidney J. Leshin, 3 East 54th St., 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 166681, filed March 3, 1983. Applicant: SCR COACHES, INC., 1808 Park Blvd., Fargo, ND 58103. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. 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 166720, filed March 10, 1983. Applicant: JACKSON BROKERS, 14003 S.E. 134th, Renton, WA 98056. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Reton, WA 98055, (206) 228-3807. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 166751, filed March 11, 1983. Applicant: TRI-COUNTY TRANSPORTATION CENTER, INC., R.D. #2, Box 213, East Stroudsburg, PA 18301. Representative: Raymond Talipski, 121 South Main Street, Taylor, PA 18517, (717) 344-8030. 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 166761, filed March 14, 1983. Applicant: JOHN WARREN, d.b.a. WARREN TOURS, 146-16th Ave., Paterson, NJ 07509. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239-4610. 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 166770, filed March 14, 1983. Applicant: CLAUDE W. DOLLY, Fords Crossing, Corringanville, MD 21524. Representative: William L. Wilson, 100 South Liberty Street, Cumberland, MD 21502, (301) 722-2515. 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).

MC 166801, filed March 15, 1983. Applicant: PAUL R. LAWRENCE, d.b.a. LAWRENCE EXPRESS, 8520 Great Plains Blvd., Chanhassen, MN 55317. Representative: Paul R. Lawrence (same address as applicant), (612) 934-8586. 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).

For the following, please direct status calls to team 2 at 202-275-7038.

Volume No. OP2-132

Decided: March 17, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 29623 (Sub-3), filed February 24, 1983. Applicant: SOUTHEASTERN STAGES, INC., 226 Alexander St., NW., Altanta, GA 30313. Representative: William C. Hughes (same address as applicant), 404-874-2741. 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 43603 (Sub-8), filed February 23, 1983. Applicant: MT. LASSEN MOTOR TRANSIT, INC., Rte. 2, Box 2931, Red Bluff, CA 96080. Representative: Daniel W. Baker, 100 Pine St., No. 2550, San Francisco, CA 94111, 415-986-1414. 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 55312 (Sub-21), filed February 18, 1983. Applicant: TRAILWAYS TENNESSEE LINES, INC., 327 Gayoso St., Memphis, TN 38103. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, 214-655-7937. Transporting (1) *passengers*, in charter and special operations, between points in the U.S. (except HI), and (2) *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).

Note.—In part (1) applicant seeks to provide privately-funded charter and special transportation.

MC 73742 (Sub-5), filed February 24, 1983. Applicant: WINN BUS LINES, INC., 909 N. 17th St., Richmond, VA 23219. Representative: Robert R. Pounders, 1915 Fordson Rd., Richmond, VA 23219, (804) 282-5369. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 107583 (Sub-62), filed March 1, 1983. Applicant: SALEM TRANSPORTATION CO., INC., 133-03 35 Ave., Flushing, NY 11354. Representative: Jack Mirow (same address as applicant), (212) 762-6700. 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 111422 (Sub-14), filed February 17, 1983. Applicant: O.D. ANDERSON, INC., 153 Conneaut Lake Rd., Greenville, PA 16125. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., N.W., Washington, DC 20008, 202-483-8633. 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 146783 (Sub-17), filed February 18, 1983. Applicant: S & L TRANSPORTATION, INC., 59-21 156th St., Flushing, NY 11355. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201-234-0301. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 155733 (Sub-2), filed February 15, 1983. Applicant: TRAIL BLAZERS, INC., 7990 Overland Rd., Boise, ID 83709. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208-343-3071. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and west of WI, IL, MO, AR and LA (except AK and HI), and (2) for or on behalf of the United States Government, general commodities (except used household goods,

hazardous or secret materials and sensitive weapons and munitions), between points in the U.S.

Note.—Part (1) is published in the Federal Register, this issue, with "regular applications".

MC 166093, filed February 4, 1983. Applicant: DOUGLAS H. PETERSON d.b.a. D & B TRUCKING, Box 158, Russell, MN 56169. Representative: Douglas H. Peterson (same address as applicant), (507) 823-5745. 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.

MC 166262, filed February 15, 1983. Applicant: OVERLAND TRADING CO., INC., 3 West Main, Vernal, UT 84078. Representative: James Waymire (same address as applicant), 801-789-4891. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 166283, filed February 15, 1983. Applicant: KENNETH R. SEKULA, d.b.a. EXPEDITORS INTERNATIONAL INC., 18935 Highway 75 North, P.O. Box 1744. Representative: Andrew E. Box (same address as applicant), 713-350-1010. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166392, filed February 23, 1983. Applicant: MIDWEST INTERMODAL CO., INC., 4549 Delaware Ave., Des Moines, IA 50313. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515-282-3525. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166393, filed February 23, 1983. Applicant: TIMOTHY PATRICK PRATER, 1111 East 3rd., Ellensburg, WA 98926. Representative: Timothy Patrick Prater (same address as applicant), 509-925-3831. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soild conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166452, filed February 28, 1983. Applicant: E & E BUS SERVICE, INC., 8340 South 85th Court, Hickory Hills, IL 60457. 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.

For the following, please direct status calls to team 4 at 202-275-7669.

Volume No. OP4-171

Decided: March 21, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163956 (Sub-1), filed March 15, 1983. Applicant: ROYAL LIMO & AIR PARCEL SERVICE, INC., P.O. Box 151, Clan Rd., Coatesville, PA 19320. Representative: Burton Neil, 26 S. Church St., West Chester, PA 19380, (215) 696-3030. Transporting *passengers*, in charter and special operations, between points in Chester and Delaware Counties, PA, and points in VA.

Note—Applicant seeks to provide privately-funded charter and special transportation.

MC 166796, filed March 15, 1983. Applicant: ROCHESTER CITY LINES CO., INC., 1825 No. Broadway, Rochester, MN 55901. Representative: James R. Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. 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 166826, filed March 15, 1983. Applicant: TRANSITAIDE WORLDWIDE INC., 875 Meadow St., Chicopee, MA 01013. Representative: Laurence L. Griffin (same address as applicant), (413) 592-9505. (A) Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *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); and (B) As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166827, filed March 15, 1983. Applicant: PIONEER FREIGHT SYSTEMS, INC., P.O. Box 892, Carthage, MO 64836. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209-4786, (205) 942-9116. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4-167

Decided: March 21, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 50026 (Sub-10), filed March 9, 1983. Applicant: TRAILWAYS ARKANSAS, INC., 1515 Jackson St., Dallas, TX 75201. Representative: G. W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655-7937. Transporting (A) *passengers*, in charter and special operations, between points in the U.S. (except HI), and (B) *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).

Note.—Applicant seeks to provide privately-funded charter and special transportation in (A) above.

MC 70947 (Sub-26), filed March 11, 1983. Applicant: MT. HOOD STAGES, INC., d.b.a. PACIFIC TRAILWAYS, 710 SW Second Ave., Suite 500, Portland, OR 97204. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226-6491. 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 166767, filed March 14, 1983. Applicant: F.T.C., INC., 39 Luke Rd., Everett, MA 02149. Representative: Rachel Endelman (same address as applicant), (617) 389-5126. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166766, filed March 14, 1983. Applicant: DONALD M. HARVEY, 20892 Spindrift Lane, Huntington Beach, CA 92646. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945-2745. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4-169

Decided: March 21, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 61616 (Sub-70), filed March 9, 1983. Applicant: MIDWEST BUSLINES, INC., 1500 Jackson St., Dallas, TX 75201. Representative: G. W. Hanthorn, 1500 Jackson St., Suite 415, Dallas, TX, (214) 655-7937. Transporting (A) *passengers*, in charter and special operations, between points in the U.S. (except HI), (B) *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), and (C) over regular routes, transporting *passengers*, between Kansas City, KS and St. Louis, MO, over Interstate Hwy 70, serving all intermediate points.

Note.—Applicant seeks in (A) above to provide privately-funded charter and special transportation, and in (C) above applicant seeks to provide regular-route service in interstate or foreign commerce and intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this Federal Register issue. Part A and B will be published in Vol. #168, Part C will be published in Vol. #169.

[FR Doc. 83-7806 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; 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 authroity.

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 appications 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 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.

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." 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 noted.

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-131.

Decided: March 18, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 21313 (Sub-2), filed February 23, 1983. Applicant: ALFRED SANTINI & CO., INC., 1571 Southern Blvd., Bronx, NY 10460. Representative: Arthur J. Piken, 95-25 Queens Blvd., Rego Park, NY 11374, 212-275-1000. Transporting (1) *household goods* and (2) *furniture and fixtures*, between New York, NY, on the one hand, and, on the other, points in ME, NH, and VT.

MC 146473 (Sub-8), filed February 18, 1983. Applicant: C.L.D. TRANSPORTATION CO., INC., 751 Broadway, Bayonne, NJ 07002. Representative: Charles J. Williams, 1815 Front St., P.O. Box 186, Scotch Plains, NJ 07076, 201-322-5030. Over *regular routes*, transporting *passengers*, between New York, NY and Atlantic City, NJ: (1) from New York over the George Washington Bridge to junction NJ Hwy 67, then over NJ Hwy 67 to junction U.S. Hwy 9W, then over U.S. Hwy 9W to East Clinton Ave, in Tenafly, NJ, then over East Clinton Ave, to junction Hillside Ave, then over Hillside Ave, to junction Washington St., then over Washington St., to junction Tenafly Rd, then over Tenafly Rd, to junction West Clinton Ave, then over West Clinton Ave, to junction Dean Drive South, then over Dean Drive South to junction Palisade Ave, in Englewood, NJ, then over Palisade Ave, to junction West St., then over West St., to junction Demarest Ave, then over Demarest Ave, to junction Dean Drive, then over Dean Drive to junction Palisade Ave, then over Palisade Ave, to junction Tryon Ave, in or near West Englewood, NJ, then over Tryon Ave, to junction Teaneck Rd, then over Teaneck Rd, to junction Cedar Lane, in Teaneck, NJ, then over Cedar Lane to junction Elm

Ave, then over Elm Ave, to junction Beverly Rd, then over Beverly Rd, to junction Lincoln Place, then over Lincoln Place to junction Cedar Lane, then over Cedar Lane to junction Teaneck Rd, then over Teaneck Rd, to junction DeGraw Ave, then over DeGraw Ave, to junction NJ Turnpike, then over Nj Turnpike to junction NJ Turnpike Interchange 18, then over NJ Turnpike to junction NJ Turnpike Interchange 11, then over NJ Turnpike to junction Garden State Parkway, in Woodbridge, NJ, then (a) over Garden State Parkway to junction Atlantic City Expressway, in Pleasantville, NJ, then over Atlantic City Expressway to Atlantic City, and (b) over Garden State Parkway to junction Garden State Parkway Exit 123, then over Garden State Parkway to junction U.S. Hwy 9, in Sayreville, NJ, then over U.S. Hwy 9 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Atlantic City, and return over the same route; (2) from junction NJ Hwy 67 in Fort Lee, NJ to junction NJ Hwy 5, then over NJ Hwy 5 to junction Anderson Ave, then over Anderson Ave, to junction Bergenline Ave, in North Bergen, NJ, then over Bergenline Ave, to junction 48th St, in Union City, NJ, then over 48th St, to junction Broadway, then over Broadway to junction Park Ave, then over Park Ave, to junction Pleasant Ave, then over Pleasant Ave, to junction Center Roadway, then over Center Roadway to junction 32nd St, then over 32nd St, to junction Kennedy Blvd, then over Kennedy Blvd, to junction 31st St, then over 31st St, to junction NJ Turnpike, then over NJ Turnpike to NJ Turnpike Interchange 16, then over NJ Turnpike to junction NJ Turnpike Interchange 11, and return over the same route; (3) from New York through the Holland Tunnel to junction NJ Turnpike Interchange 14C, then over NJ Turnpike to junction NJ Turnpike Interchange 14, then over NJ Turnpike to junction U.S. Hwy 22, in Newark, NJ then over U.S. Hwy 22 to junction Hillside Ave, in Hillside, NJ, then over Hillside Ave, to junction North Broad St., then over North Broad St., to junction North Ave, then over North Ave, to junction Morris Ave, then over Morris Ave, to junction Stuyvesant Ave, in Union, NJ, then over Stuyvesant Ave, to junction Emerson Ave, then over Emerson Ave, to junction Stowe Ave, then over Stowe Ave, to junction Pine St., then over Pine St., to junction Morris Ave, then over Morris Ave, to junction North Ave, then over North Ave, to junction Elmora Ave, in Elizabeth, NJ, then over Elmora Ave, to junction Westfield Ave, then over Westfield Ave, to junction Stiles Ave, then over Stiles Ave, to junction Muriel Ave, then over Muriel Ave, to junction Elmora Ave, then over Elmora Ave, to junction Rahway Ave, then over Rahway Ave, to junction St. George Ave, in Roselle, NJ, then over St. George Ave, to junction North Wood Ave, in Linden, NJ, then over North Wood Ave, to junction Knopf St., then over Knopf St., to junction Helen St., then over Helen St., to junction West Elm St., then over West Elm St., to junction North Wood Ave, then over North Wood Ave, to junction Raritan Rd, then over Raritan Rd, to junction Garden State Parkway, and return over the same route; (4) from New York through the Lincoln Tunnel to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Park Ave, and North Marginal St., in or near Weehawken, NJ, then over North Marginal St., to junction 32nd St., in Union , NJ, then over over 32nd St., to junction Kennedy Blvd, then over Kennedy Blvd, to junction Manhattan Ave, in Jersey City, NJ, then over Manhattan Ave, to junction Central Ave, then over Central Ave, to junction Hoboken Ave, then over Hoboken Ave, to junction Kennedy Blvd, then over Kennedy Blvd, to junction Bergen Ave, then over Bergen Ave, to junction Montgomery St., then over Montgomery St., to junction Merseles St., then over Merseles St., to junction NJ Turnpike, then over NJ Turnpike to junction NJ Turnpike Interchange 14C, in Jersey City, NJ, then over NJ Turnpike to junction NJ Turnpike Interchange 14B, then over NJ Turnpike to junction Bayview Ave, then over Bayview Ave, to junction Caven Point Rd, then over Caven Point Rd, to junction Bayview Ave, then over Bayview Ave, to junction NJ Turnpike, then over NJ Turnpike to junction NJ Turnpike Interchange 14B, then over NJ Turnpike to junction NJ Turnpike Interchange 14A, then over NJ Turnpike to junction East 53rd St., in Bayonne, NJ, then over East 53rd St., to junction Broadway, then over Broadway to junction West 4th St., then over West 4th St., to junction Ave A, then over Ave A to junction Bayonne Bridge, then over Bayonne Bridge to junction NY Hwy 440 in Staten Island, NY, then over NY Hwy 440 to junction Interstate Hwy 278, then over Interstate Hwy 278 to junction NY Hwy 440, then over NY Hwy 440 to junction Outerbridge Crossing, then over Outerbridge Crossing to junction NJ Hwy 440, in Perth Amboy, NJ, then over NJ Hwy 440 to junction Garden State Parkway, and return over the same route; (5) from New York over the Goethals Bridge to junction Interstate Hwy 278, in Elizabeth, NJ, then over Interstate Hwy 278 to junction U.S. Hwys 1 and 9, then over U.S. Hwys. 1 and 9 to junction South Wood Ave, in Linden, NJ, then over South Wood Ave, to junction St. George Ave, then over St. George Ave, to junction NJ Hwy 35, in Rahway, NJ, then over NJ Hwy 35 to junction New Brunswick Ave, in Perth Amoby, NJ, then over new Brunswick Ave, to junction State St., then over State St., to junction Smith St., then over Smith St., to junction Garden State Parkway, and return over the same route; and (6) serving all intermediate points on routes (1) through (5) above.

Notes.—(1) Applicant seeks to provide regular-route service in intrastate or foreign commerce. (2) Applicant seeks to provide regular-route service in interstate commerce under 49 U.S.C. 10922(c)(2)(B).

MC 148143 (Sub-18), filed February 28, 1983. Applicant: MID-AMERICA FARM LINES, INC., M.P.O. Box 71 Springfield, MO 65801. Representative: John M. Ringenberg (same address as applicant), 417-862-7486. 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 contracts(s) with Ramco Transportation, Inc., of Seattle, WA.

MC 164803, filed February 28, 1983. Applicant: M.H. COGBURN GAILLARD, JR., Route 1, P.O. Box 116, Monetta, SC 29105. Representative: M. H. Cogburn Gaillard, Jr. (same address as applicant), 803-685-7913. Transporting *aminimal feed and feed supplements*, between points in the U.S. (except AK and HI), under continuing contract(s) with Horse Health Products, Inc., of Aiken, SC.

MC 166102, filed February 7, 1983. Applicant: N.S.T.S. CORPORATION, 166 Schoosett St., Pembroke, MA 02359. Representative: John M Kane, Jr., P.O. Box 46, Larchmond Land, Honover, MA 02339, (617) 826-5378. 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 N.S.T.S. Corporation, of Hanover, MA.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-166

Decided: March 21, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 30787 (Sub-8), filed March 10, 1983. Applicant: NIAGARA SCENIC BUS LINES, INC., 5700 S. Maelou Drive, Hamburg, NY 14075. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW, Washington, DC 20005, (202) 783-3525. Over regular

routes, transporting *passengers*, (1) between Niagara Falls, NY and the Buffalo International Airport at Cheektowaga, NY: from Niagara Falls, NY over the Robert Moses Parkway to junction Interstate Hwy 190, then over Interstate Hwy 190 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction Interstate Hwy 290, then over Interstate Hwy 290 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Kensington Expressway (NY Hwy 33), then over Kensington Expressway to junction Genesee St., then over Genesee St., to Buffalo International Airport at Cheektowaga, NY, and return over the same route, serving all intermediate points, and (2) between Niagara Falls, NY and the Buffalo International Airport at Cheektowaga, NY: from Niagara Falls over Robert Moses Parkway to junction Interstate Hwy 190, then over Interstate Hwy 190 to junction Interstate 290, then over Interstate Hwy 290 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Kensingston Expressway (NY Hwy 33), then over Kensington Expressway to junction Genesee St., then over Genesee St. to Buffalo International Airport at Cheektowaga, NY, and return over the same route, serving all intermediate points.

MC 34087 (Sub-15), filed March 8, 1983. Applicant: NORMAN HILLS, Route 60, Fredonia, NY 14063. Representative: Norman Hills, (same address as applicant), (716) 672-4312. 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 (1) Fox Grocery Company, of Belle Vernon, PA, (2) Dawn Food Products, of Jackson, MI, (3) S. M. Flickenger Co., Inc., of Jamestown, NY, (4) Peter J. Schmitt Food Distribution, of Sharon, PA, and (5) Niagara Therapy Manufacturing Corporation, of Brocton, NY.

MC 42487 (Sub-1068), filed March 7, 1983. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. 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 Wal-Mart Stores, Inc., of Bentonville, AR.

MC 109426 (Sub-5), filed March 11, 1983. Applicant: McCOLLISTER'S MOVING & STORAGE, INC., 1800 Route 130 North, P.O. Box 9, Burlington, NJ 08016. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, (215) 925-8300. Transporting *electronic equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with GTE Telenet, of Mt. Laurel, NJ.

MC 109586 (Sub-2), filed March 7, 1983. Applicant: MERCURY VAN SERVICE, INC., 18930 Gaithersburg-Laytonsville Rd., Gaithersburg, MD 20879-4197. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902, (301) 649-5074. Transporting *household goods* and *furniture and fixtures*, (1) between points in CT, DE, IL, IN, KY, MD, MA, NJ, NY, OH, PA, RI, VA, WV, and DC, and (2) between those points in (1) above, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114107 (Sub-11), filed March 7, 1983. Applicant: RONALD ELLIOTT CLARK, d.b.a. CLARK'S TRUCKING AND EXCAVATING, 14201 Bohannon Lane, Louisville, KY 40272. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602, (502) 223-8244. 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 Louisville Ladder Division of Emerson Electric Co., of Louisville, KY.

MC 150177 (Sub-3), filed March 14, 1983. Applicant: CONATSER TRUCKING INC., 6350 Upper Rd., Cincinnati, OH 45238. Representative: James R. Jones (same address as applicant), (513) 941-3155. Transporting *food and related products*, between Cincinnati, OH, Phoenix, AR and points in Norfolk County, MA, and Northampton County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159736 (Sub-2), filed March 14, 1983. Applicant: DTX, INC., 500 Hogsback Rd., Mason, MI 48854. Representative: Daniel J. Sweeney, 1750 Pennsylvania Avenue NW., Washington, DC 20006, (202) 393-5710. 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 164546, filed March 10, 1983. Applicant: C.U. TRANSIT COOPERATIVE, 218 S. Main St., Cottage Grove, WI 53527. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting (1) *petroleum*, (2) *chemicals and related products*, and (3) *fertilizers and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mauston Farmers Cooperative Association, of Mauston, WI, and Dane County Farmers Union Coop, of Cottage Grove, WI.

Volumn No. OP4-168

Decided: March 21, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 61616 (Sub-70), filed March 9, 1983. Applicant: MIDWEST BUSLINES, INC., 1500 Jackson St., Dallas, TX 75201. Representative: G. W. Hanthorn, 1500 Jackson St., Suite 415, Dallas, TX, (214) 655-7937. Transporting (A) *passengers*, in charter and special operations, between points in the U.S. (except HI), (B) *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), and (C) over regular routes, transporting *passengers*, between Kansas City, KS and St. Louis, MO, over Interstate Hwy 70, serving all intermediate points.

Note.—Applicant seeks in (A) above to provide privately funded charter and special transportation, and in (C) above applicant seeks to provide regular-route service in interstate or foreign commerce and intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A and B will be published in VOL #168. Part C will be published in VOL #169.

Volume No. OP4-170

Decided: March 21, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF-677, filed March 11, 1983. Applicant: GOLDEN NORTH INTERNATIONAL, INC., P.O. Box 4-176, Anchorage, AK 99509. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. As a freight fowarder in connection with the transportation of *used household goods, unaccompanied baggage*, and *used automobiles*, between points in the U.S.

MC 42146 (Sub-35), filed March 15, 1983. Applicant: A. G. BOONE COMPANY, 1812 W Morehead St., P.O. Box 668126, Charlotte, NC 28266. Representative: Floyd C. Hartsell, (same address as applicant), (704) 376-7533. 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 International Freight Brokers, Inc. of Charlotte, NC.

MC 139207 (Sub-22), filed March 15, 1983. Applicant: McNABB-WADSWORTH TRUCKING CO., INC., 305 S Wilcox Dr., Kingsport, TN 37665. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004, (202) 347-8862. Transporting *food and related products*, between points in Greene County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142407 (Sub-6), filed March 15, 1983. Applicant: ROLL-ON, INC., Rt. 3, Box 36C, Brevard, NC 28712. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763-9555. Transporting *food and related products*, between points in IA, IL, IN, KY, MN, MO, NE, and NM, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142987 (Sub-4), filed March 14, 1983. Applicant: BOADY INTERSTATE EXPRESS, INC., Rt. 1, Box 256C, Merrillan, WI 54754. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, OH, MI, MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *animal food*, between points in the U.S. (except AK and HI).

MC 154716 (Sub-6), filed March 14, 1983. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmot Rd., Deerfield, IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525, (312) 352-7220. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Ralston Purina Company, Checkerboard Square, of St. Louis, MO.

MC 160046 (Sub-2), filed March 15, 1983. Applicant: MICHAEL R. IRVING, d.b.a. IRVIN TRANSFER, P.O. Box 506, Shelby, MT 59474. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543-8369. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MT.

MC 165967 (Sub-1), filed March 14, 1983. Applicant: FOSTER BROS. TRUCKING, INC., P.O. Box 8, Lamar, IN 47550. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 635-5853. Transporting *coal*, between points in Martin, Daviess, Dubois, Greene and Spencer Counties, IN.

MC 166486, filed March 15, 1983. Applicant: GERIG'S TRUCKING & LEASING, INC., 3909 Limestone Dr., Fort Wayne, IN 46809. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885, (219) 422-8884. 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 General Electric Co., of Fort Wayne, IN.

MC 166807, filed March 15, 1983. Applicant: ORZAK CARTAGE CO., INC., 1337 West 37th Place, Chicago, IL 60609. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298-1094. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Fond Du Lac and Sheyboygan Counties, WI, and Chicago, Il, on the one hand, and, on the other, points in AL, AZ, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, PA, SC, TN, TX, UT, VA, WV, WI and WY.

MC 166816, filed March 15, 1983. Applicant: HOWES LEATHER COMPANY, INC., One Batterymarch Park, Quincy, MA 02169. Representative: Samuel L. Watts, 54 Middlesex Turnpike, Burlington, MA 01803, (617) 273-3530. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, CO, CT, DE, FL, IA, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, NE, NH, NJ, NY, OH, OK, PA, RI, TN, TX, VA, VT, WI, WV, and DC.

MC 166817, filed March 15, 1983. Applicant: DIXIE CARRIERS, INC., 235 8th St., Pontotoc, MS 38863. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948-8820. Transporting *pet and fish food*, between points in the U.S., under continuing contract(s) with Sunshine Mills, Inc., of Tupelo, MS.

MC 166836, filed March 15, 1983. Applicant: NATIONAL TRANSPORTATION AND DISTRIBUTION SERVICES, INC., P.O. Box 745, Stone Mountain, GA 30086. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477-1525. 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 J. C. Penney Co., Inc., of New York, NY.

MC 166837, filed March 14, 1983. Applicant: ROY MEIER, P.O. Box 152, Mitchell, NE 69357. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 488-4841. Transporting *fertilizer and soil conditioners*, between points in Laramie and Goshen Counties, WY, Hamilton, Perkins, and Gage Counties, NE, Finney County, KS, and Woodward County, OK, on the one hand, and, on the other, points in CO, NE, and WY.

[FR Doc. 83-7805 Filed 3-25-83; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-F-15053]

Motor Carriers; JEM Trucking, Inc.—Purchase Exemption—Tom Miller Trucking Company, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by JEM Trucking, Inc., (MC-144999) of the interstate operating rights held by Tom Miller Trucking Company, Inc., in Certificate No. MC-160275, which authorizes the irregular-route transportation of general commodities (with exceptions) between points in North Carolina, on the one hand, and, on the other, points in Minnesota and points in other States east of the Mississippi River.

DATES: This exemption is effective on April 27, 1983. Petitions for reconsideration must be filed by April 18, 1983. Petitions for stay must be filed by April 7, 1983.

ADDRESSES: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative D. R. Beeler, P.O. Box 482, Franklin, TN 37064. Pleadings should refer to No. MC-F-15053.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in No. MC-F-15053. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave. NW., Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Decided: March 22, 1983.

By the Commission, Division 1. Commissioners Andre, Taylor, and Sterrett. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc 83-7815 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15167]

Motor Carriers; Robert P. Johnson, John W. Higgins, Paul Hinds and Chester M. Lind, Individuals—Continuance in Control—Rocar Equipment Company, and Rogers Cartage Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1). Procedures For Handling Exemptions filed by Motor Carriers of Property under 49 U.S.C. 11343, 47 FR 53303 (November 24, 1982), Robert P. Johnson, John W. Higgins, Paul Hinds and Chester M. Lind, Individuals, seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of Rocar Equipment Company (MC-166143), and Rogers Cartage Company (MC-64932).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to: (1) Motor Section, Team 2, Room 2379 Interstate Commerce Commission, Washington, D.C. 20423; and (2) Petitioner's representative Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603. Comments should refer to No. MC-F-15167.

FOR FURTHER INFORMATION CONTACT: C. Landis Plummer, 202-275-7030.

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: March 22, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7808 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15021]

Motor Carriers; Koch Industries, Inc.—Continuance in Control Exemption—Koch Oil Co., Ltd. and Matador Service, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the continuance in control by Koch Industries, Inc., of its two wholly owned motor carrier subsidiaries: Koch Oil Co., Ltd. (MC-164143) and Matador Service, Inc. (MC-145149).

DATES: This exemption is effective on April 27, 1983. Petitions for reconsideration must be filed by April 18, 1983. Petitions for stay must be filed by April 7, 1983.

ADDRESSES: Send pleadings to: (1) Motor Section, Team 2, Room 2379 Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative, E. Allen Munro, P.O. Box 6088 Station "D" Calgary, Alberta, Canada T2P 2C7. Pleadings should refer to No. MC-F-15021.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in No. MC-F-15021. To purchase a copy of the full decision, contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area, or (800) 424-5403 Toll-free outside the DC area.

Decided: March 21, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Andre was absent and did not participate.

Agatha L Mergenovich,

Secretary.

[FR Doc. 83-7812 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15024]

Motor Carriers; Victor Marano—Continuance in Control Exemption—Falcon Express, Inc. and Marty's Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(b), the continuance in control by Victor Marano (Marano) of Falcon Express, Inc. (Falcon) (No. MC-164199), and Marty's Express, Inc. (Marty's Express) (No. MC-39249). Falcon, a recipient of new motor common carrier authority, is partially owned by Marano, who is also a minority shareholder and officer of Marty's Express.

DATES: This exemption is effective on April 28, 1983. Petitions for reconsideration must be filed by April 18, 1983. Petitions for stay must be filed by April 7, 1983.

ADDRESSES: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423; and (2) Petitioners' representatives Leonard A. Jaskiewicz, and Robert R. Harris, 1730 M Street, N.W., Washington, D.C. 20036. Pleadings should refer to No. MC-F-15024.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in No. MC-F-15024. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Decided: March 21, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7814 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15063]

Motor Carriers; Gary McLean, Terry McLean, Doug McLean, and Rod McLean—Continuance in Control Exemption—Northwest Contract Carriers, Inc., Interstate Distributor Co., and Interstate Draying Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the continuance in control by Gary McLean, Terry McLean, Doug

McLean, and Rod McLean of Northwest Contract Carriers, Inc. (No. MC-162817), Interstate Distributor Co. (MC-117201) and Interstate Draying Co. (MC-151929).

DATES: This exemption is effective on April 27, 1983. Petitions for reconsideration must be filed by April 18, 1983. Petitions for stay must be filed by April 7, 1983.

ADDRESSES: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative Lawrence V. Smart, Jr., 419 N.W., 23rd Avenue, Portland, OR 97210. Pleadings should refer to No. MC-F-15063.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in No. MC-F-15063. To purchase a copy of the full decision contact: TS Infosytems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Decided: March 21, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7810 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15155]

Motor Carriers; Scott Transfer, Inc.—Merger Exemption—Bacon Motor Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Scott Transfer, Inc. (Scott) (No. MC-117956) and Bacon Motor Express, Inc. (Bacon) (No. MC-106863), currently under common control as authorized in No. MC-F-14570, seek an exemption from the requirement of prior regulatory approval for the merger of Bacon into Scott for management, control, and operation.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to: (1) Motor Section, Team 2, Room 2379, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative, Warren A. Goff, Goff & Stroud, 109 Madison Avenue, Memphis, TN 38103. Comments should refer to MC-F-15155.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

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: March 21, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7800 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15045]

Motor Carriers; Lloyd W. Sharp—Control Exemption—Carson Truck Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the acquisition by Lloyd W. Sharp, who controls B & G Trucking, Inc. (MC-146820) through the ownership of 50 percent of its outstanding capital stock, of control of Carson Truck Lines, Inc. (MC-142835).

DATES: This exemption is effective on April 27, 1983. Petitions for reconsideration must be filed by April 18, 1983. Petitions for stay must be filed by April 7, 1983.

ADDRESSES: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative, Robert C. Bamford, Suite 1301, 1601 Wilson boulevard, Arlington, VA 22209. Pleadings should refer to No. MC-F-15045.

FOR FURTHER INFORMATION CONTCT: Warren C. Wood, (202) 275-7977.Q02

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in No. MC-F-15045. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Decided: March 21, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7813 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15011]

Motor Carriers, L. M., Wenham, et al.—Continuance in Control Exemption—Dependable Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the continuance in control by L. M. Wenham, F. L. Wenham III, J. E. Wenham and T. G. Wenham of Dependable Transportation, Inc. (No. MC-154613). The Wenhams also have a beneficial interest in Transco Systems, Inc., a non-carrier holding company, which controls Total Transportation Trucking, Inc. (MC-160291), Wenham Transportation, Inc. (MC-77424), and Bestway Systems, Inc. (MC-161173).

DATES: This exemption is effective on April 27, 1983. Petitions for reconsideration must be filed by April 18, 1983. Petitions for stay must be filed by April 7, 1983.

ADDRESSES: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423; and (2) Petitioner's representative, F. L. Wenham III, 3200 East 79th St., Cleveland, OH 44104. Pleadings should refer to No. MC-F-15011.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in No. MC-F-15011. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Decided: March 1, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7811 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15165]

Motor Carriers; Western Lines, Inc.—Purchase Exemption—L & L Motor Freight, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Western Lines, Inc. (Western) (No. MC-119908), Ace Doran Hauling & Rigging Co. (Ace) (No. MC-112304) which controls Western and Daniel Hamm Drayage Co. (No. MC-42963), Richard Doran (Doran) (a non-carrier) who controls Ace, and L & L Motor Freight, Inc. (L & L) (No. MC-149152), seek an exemption from the requirement of prior regulatory approval of the purchase of a portion of L & L's operating rights, namely, that portion of (Sub-No. 6) authorizing the transportation of *general commodities* (with exceptions), over regular routes, between Monahans, TX, and Oklahoma City, OK.

DATE: 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, D.C. 20423; and (2) Petitioner's representative, A. Charles Tell, 100 E. Broad Street, Columbus, OH 43215. Comments should refer to No. MC-F-15165.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

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: March 21, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7804 Filed 3-25-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in an Action To Enjoin Discharge of Water Pollutants; Louisiana Pacific Corp.

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that on March 4, 1983, a proposed Consent Decree in *United States* v. *Louisiana Pacific Corporation*, Civil Action No. C-78-0567 MPH, was lodged with the United States District Court for the Northern District of California. The proposed decree requires the Louisiana Pacific Corporation to pay a civil penalty for violations of the Clean Water Act, 33 U.S.C. 1251 *et seq., and modifies a compliance order entered on December 10, 1982.*

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments related to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Louisiana Pacific Corporation*, DJ Ref. 62-11-90.

The proposed consent decree may be examined at the Region IX Office of the Environmental Protection, Enforcement Division, 215 Fremont Street, San Francisco, California 94105, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1515), Tenth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-7907 Filed 3-25-83; 8:45 am]

BILLING CODE 4410-01-M

LIBRARY OF CONGRESS

Copyright Office

Policy Statement on Deposit Retention Schedule

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of policy decision.

SUMMARY: Pursuant to section 704(d) of the Copyright Act, the Register of Copyrights and The Librarian of Congress have determined that it is no longer practicable to retain published materials deposited in connection with registration of claims to copyright for more than five years from the date of deposit (except for works of the visual arts (Class VA), which will be retained for ten or more years, if possible). This notice informs the public of that policy determination.

FOR FURTHER INFORMATION CONTACT: Michael Pew, Library of Congress, Department D.S., Washington, D.C. 20540; telephone: (202) 287-8370.

SUPPLEMENTARY INFORMATION: Section 704 of the 1976 Copyright Act (title 17 of the U.S. Code) requires the Copyright Office to retain the material deposited in connection with the registration of a claim to copyright in an unpublished work during its term of copyright, unless a facsimile reproduction of the entire deposit has been made a part of Office records. 17 U.S.C. 704(d). Published works are to be "retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress." 17 U.S.C. 704(d). The Copyright Office realizes the importance and significance of retaining all deposit material submitted in connection with the registration of claims to copyright. However, storage space limitations have necessitated decisions here announced.

In order to ensure that the Copyright Office continues to fulfill its statutory obligation to keep unpublished deposits for the term of copyright, it has become necessary to modify the policy respecting the retention of copies of published works. After careful study of the space available, the projected growth in registrations, and the use made of the deposits, the Register of Copyrights and The Librarian of Congress have made a determination under section 704(d) of the Copyright Act that it is no longer practicable to retain published deposits more than five years from the date of deposit (excluding works of the visual arts (VA deposits), which will be kept for ten or more years, if possible, because they are the subject of litigation to a greater degree than deposits in other classes). The Copyright Office has therefore revised its retention schedule for published deposits in such a manner

that will ensure not only continued compliance with the law and continued service to the public, but also the most efficient use of the limited space available for storage. Unpublished deposits will continue to be kept for the term of copyright, as provided by law, unless a facsimile reproduction has been made. All deposits removed from storage under the revised schedule will first be offered to the Library of Congress for its collections; any materials not selected may be transferred by the Library under its exchange and gift programs to other libraries.

Section 704(e) of title 17 provides that, "[t]he depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may requestm retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work." The statute also provides that Copyright Office Regulations shall prescribe, "* * * the conditions under which such requests are to be made and granted * * *." Only a few requests for full-term retention have been received since 1978. Based on these requests, certain deposits are being held for full-term storage, pending issuance of a regulation. A regulation is in preparation and publication is anticipated no later than March 31, 1983.

Dated: February 28, 1983.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 83-7838 Filed 3-25-83; 8:45 am]

BILLING CODE 1410-03-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel (Performing Arts Organizations); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Performing Arts Organizations) to the National Council on the Arts will be held on April 12-15, 1983, from 9:00 a.m.-5:30 p.m. in room 1428 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on April 12, from 9:00 a.m-11:00 a.m. to discuss policy and guidelines.

The remaining sessions of this meeting on April 12, from 11:00 a.m.-5:30 p.m. and on April 13-15, from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-7893 Filed 3-25-83; 8:45 am]

BILLING CODE 7537-01-M

Literature Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held on April 14-25, 1983, from 9:00 a.m.-5:30 p.m. in room 1340 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on April 15, from 11:00 a.m.-5:30 p.m. to discuss policy and guidelines.

The remaining sessions of this meeting on April 14, from 9:00 a.m.-5:30 p.m. and on April 15, from 9:00 a.m.-10:30 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on application for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-7895 Filed 3-25-83; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel (Programming in the Arts);

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Programming in the Arts) to the National Council on the Arts will be held on April 19-20, 1983, from 9:00 a.m.-5:30 p.m. in the 12th Floor Screening Room of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-7894 Filed 3-25-83; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Conceptual Performance Fellowships); Meeting

Pursuant to Secion 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Conceptual Performance Fellowships) to the National Council on the Arts will be held on April 13-15, 1983, from 9:00 a.m.-6:00 p.m. in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In acordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 83-7896 Filed 3-25-83; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Video Fellowships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Video Fellowships) to the National Council on the Arts will be held on April 26-29, 1983, from 9:00 a.m.—5:30 p.m. in room 716-718 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

This meeting is for the the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In acordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-7892 Filed 3-25-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Subpanel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L., 92-462, the National Science Foundation announces the following meeting:

Name: Subpanel for Psychobiology, Advisory Panel for Behavioral and Neural Sciences.

Date and Time: April 13-15, 1983, 8:30 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 523, Washington, D.C.

Type of Meeting: Open—April 15, 12:00 p.m.-2:00 p.m.; closed—April 13-14, 8:30-5:00 p.m., April 15-8:30 a.m.-12:00 p.m. and 2:00 p.m.-5:00 p.m.

Contact Person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, Telephone (202) 257-7949.

Summary Minutes: May be obtained from the Contact Person, Dr. Fred Stollnitz, at the above stated address.

Purpose of Panel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: Open—Research trends and opportunities in Psychobiology; closed—Review of proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 23, 1983.

[FR Doc. 83-7883 Filed 3-25-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel for History and Philosophy of Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel for History and Philosophy of Science Advisory Panel for Social and Economic Science.

Date and Time: April 14th, 15th and 16th, 1983: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Margaret W. Rossiter, Program Director, History and Philosophy of Science Program, Room 312, National Science Foundation, Washington, DC 20550, telephone (202) 357-9677.

Purpose of Subpanel: To provide advice and recommendation concerning support for research in History and Philosophy of Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 23, 1983.

[FR Doc. 83-7881 Filed 3-25-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Linguistics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Linguistics of the Advisory Panel for Behavioral and Neural Sciences.

Date and Time: April 13-15, 1983, 9:00 a.m. to 5:00 p.m., each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Part open, closed 4/13 and 4/15, 9:00 a.m. to 5:00 p.m., and 4/14 from 11:00 a.m. to 5:00 p.m.; open—4/14, 9:00 a.m. to 11:00 a.m.

Contact Person: Dr. Paul G. Chapin, Program Director, Linguistics Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7696.

Summary Minutes: May be obtained from the contact person, Dr. Paul G. Chapin, at the above stated address.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Linguistics.

Agenda: Closed 4/13 and 4/15, 9:00 a.m. to 5:00 p.m., and 4/14, from 11:00 a.m. to 5:00 p.m., to review and evaluate research proposals as part of the selection process for awards.

Open—4/14, 9:00 a.m. to 11:00 a.m., general discussion of the current status and future plans of the Linguistics Program.

Reason for Closing: The Proposals being reviewed include information of a proprietary or confidential nature, including technical information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 23, 1983.

[FR Doc. 83-7884 Filed 3-25-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel for Memory and Cognitive Processes; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavorial and Neural Sciences, Subpanel on Memory and Cognitive Processes.

Date and Time: April 12-14, 1983, 9:00 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G St. NW., Washington, D.C. 20550, Room 421.

Type of Meeting: Part Open—Closed—4/12 and 4/14 9:00 a.m. to 5:00 p.m. and 4/13 1:00 p.m. to 5:00 p.m.; open—4/13 9:00 a.m. to 12:00 noon.

Contact Person: Dr. Joseph L Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9898.

Summary Minutes: May be obtained from the Contact Person, Dr. Joseph L. Young, at the above stated address.

Purpose of Panel: To provide advice and recommendations concerning support for research in memory and cognitive processes.

Agenda: Closed—4/12 and 14 9:00 a.m. to 5:00 p.m., 4/13 1:00 p.m. to 5:00 p.m., to review and evaluate research proposals as part of the selection process for awards.

Open—4/13 9:00 a.m. to 12:00 noon, general discussion of the current status and future plans of the Memory and Cognitive Processes Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 23, 1983.

[FR Doc. 83-7885 Filed 3-25-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Systematic Biology of the Advisory Panel for Environmental Biology.

Date and Time: April 13, 14 and 15, 1983-8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Wallace E. LaBerge, Program Director, Systematic Biology (202) 357-9588, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 23, 1983.

[FR Doc. 83-7882 Filed 3-25-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 18th day of March, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORTS)

Name of applicant, date of application, date received, and application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Mitsubishi Int'l, Mar. 4, 1983, Mar. 11, 1983, XSNM02030	3.45 pct enriched uranium	10,554	365	Routine reload of fuel for Genkai I	Japan.
Mitsui & Co., Mar. 9, 1983, Mar. 15, 1983, XSNM02031	3.95 pct enriched uranium	11,439	341	Routine reload of fuel for Fukushima I, Unit 5.	Japan.
Combustion Engineering, Mar. 8, 1983, Mar. 15, 1983, XSNM02032.	4.1 pct enriched uranium	160,000	6,560	Five (5) reloads of fuel each for Korea Units 7 and 8.	Korea.

[FR Doc. 83-7782 Filed 3-25-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power and Light Co. (Arkansas Nuclear One, Unit 1) Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Arkansas Power & Light Company (the licensee) is the holder of Facility Operating License No. DPR-51 which authorizes the operation of the Arkansas Nuclear One, Unit 1 (the facility) at steady-state power levels not in excess of 2568 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Pope County, Arkansas.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements". Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Arkansas Power and Light Company responded to the Generic Letter 82-05 by letter dated May 17, 1982, supplemented by letters dated May 28, 1982, and June 7, 1982; Arkansas Power and Light responded to the Generic Letter 82-10 by letter dated September 10, 1982. In these submittals, Arkansas Power and Light Company confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

There are six items from Generic Letter 82-10 that, as noted in the Table (Attachment 2), have licensee schedules to be determined and are therefore not included in this Order. Some of the items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining item is provided herein:

II.E.1.2 Auxiliary Feedwater (AFW) Initiation and Flow Indication

The licensee has committed to complete the installation and testing of the Emergency Feedwater System upgrade, which includes the safety grade Emergency Feedwater Initiation System, during the first cold shutdown of sufficient duration, but no later than the sixth refueling outage currently scheduled for Fall 1984. The NRC staff has reviewed the licensee's submittals and determined that the licensee's modified schedule for implementation of the safety grade Emergency Feedwater Initiation System is acceptable based on the following:

The licensee's emergency feedwater modification upgrades the control system as well as the automatic initiation as required in Item II.E.1.2. The upgrade involves extensive plant modifications and safety grade equipment which will not be available until March 1983. The licensee's current schedule for the fifth refueling is November 1982. During this time as much of the modifications will be implemented as will be possible. The remainder of the modifications will be dependent upon equipment which will not be available until March 1983 and a cold shutdown of sufficient duration for completion of the work. The licensee estimates that it will take an outage of at least 10 weeks to complete the remaining modifications and testing of the system. The licensee proposes to complete the final installation and testing of the upgrade during the first cold shutdown of sufficient duration after March 1983, but no later than the sixth refueling outage which is currently scheduled for Fall 1984.

The licensee states that during the interim period, pending completion of the Emergency Feedwater System upgrade modifications, the present Automatic Emergency Feedwater Initiation System, installed as a short term lessons learned requirement, will provide a reliable means of initiating emergency feedwater. The current system is such that no single failure can prevent initiation and control to at least one steam generator. The overall reliability of this system has been improved by modifications made since 1980 as a result of the Crystal River 3 event. The safety grade flow indication was completed during the 1981 refueling outage.

We find, based on the above evaluation, that: (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the several delays (unexpected design complexity, interface problems, and equipment delays); and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitments should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o 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 effective immediately that* the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. *A request for hearing shall not stay the immediate effectiveness of this Order.*

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 concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachments:

1. Licensee's Commitments on Applicable NUREG-0737 Requirements from Generic Letter 82-05.
2. Licensee's Commitments on Applicable NUREG-0737 Requirements from Generic Letter 82-10.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgrade post-accident sampling capability	Do.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Do.
II.E.1.2	Aux. Feedwater Initiation & Flow Indication.	July 1, 1981	Modify instrumentation to level of safety grade	Flow Indication Complete; EFW Initiation Scheduled for 6th Refueling Outrage (11/84).
II.E.4.2	Containment Isolation Dependability.	do	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Complete.
		do	Part 7-isolate purge & vent valves on radiation signal	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install in-containment radiation-level monitors	Do.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.
II.K.2.10	Safety Grade Trips	July 1, 1981	Install anticipatory reactor trips	Do.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.1.3.1	Limit Overtime	Oct. 1,1982 per Gen. Ltr. 82-12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd. June 15, 1982.	Complete.
I.A.1.3.2	[2] Minimum Shift Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	[2] Revise Emergency Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test PROGRAMS	July 1, 1982	Submit plant specific reports on relief & safety valve program.	Complete.
II.D.1.3	Block Valve Test Program	do	Submit report of results of test program	Do.
II.K.3.30 & 31	[2] SBLOCA Analysis	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.a.1.2	[2] Staffing Levels for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be Determined.
III.A.1.2	[2] Upgrade Emergency Support Facilities.	do	do	Do.
III.A.2.2	[2] Meteorological Data	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Confirmatory Order.

[FR Doc. 83-7763 Filed 3-25-83; 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 Confirming Licensee Commitments on Post-TMI Related Issues

I

The Florida Power Corporation (the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR-72 which authorizes the operation of the Crystal River Unit No. 3 Nuclear Generating Station (the facility) at steady-state 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) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Florida Power Corporation responded to the Generic Letter 82-05 by letters dated April 14, June 18 (2 letters), June 30, September 8 and 14, 1982; Florida Power Corporation responded to the Generic Letter 82-10 by letters dated June 4, and September 17, 1982. In these submittals, Florida Power Corporation confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to fourteen and ten items, respectively. Of the ten items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eight of the 18 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining ten items is provided herein:

II.B.2 *Plant Shielding*

This item will be delayed by the licensee and will be completed during the next refueling outage, R.O.IV. R.O.IV is scheduled to start in March 1983 and to continue for about 16 weeks. The delay was caused by late delivery of valve operator starters and manual valve extenders. The manual valve extenders have been received and are scheduled to be installed prior to November 1982. In addition, a six day outage will be required to complete final hookup of the valve operators. The licensee has stated that temporary shielding methods and procedures for manual action will be used as a compensatory measure until final installation has been completed.

II.B.3 *Post Accident Sampling*

This item will be delayed by the licensee and will be completed by December 1983. Delay in installation was caused by late delivery of a number of items of equipment and subsequent interface design problems in the plant. Also contributing to the delay was seismic justificatin deficiencies for the Target Rock valves. As compensatory measures, plant procedures for handling and analyzing post-accident samples were developed and implemented. These will be utilized until the post-accident sampling equipment becomes operational.

II.E.1.2 *Auxiliary Feedwater (AFW) Initiation and Flow Indication*

Safety grade AFW initiation and flow indication is part of an expanded AFW system upgrade called Emergency Feedwater Indication and Control (EFIC). The upgrade will include modifications (Safety Grade Control) that are beyond those suggested in NUREG-0737 and accordingly the expanded upgrade will not be completed until R.O.V, scheduled to begin in November 1984. Contributing to the delay has been the scheduled delivery dates for equipment such as the qualified Target Rock valves, qualified steam generator level transmitters and the EFIC cabinets. As an interim measure pending completion of the EFIC system, the licensee has installed and has operational a control grade system that is single-failure proof.

II.F.1 (1-6) *Post-Accident Monitoring (6 items)*

The licensee will delay three items, II.F.1(1), (2) and (6) for completion by December 1983; and three items, II.F.1(3), (4) and (5) for completion during R.O.IV, scheduled for March 1983. For Items II.F.1(1), Noble Gas Effluent Radiological Monitor, and II.F.1(2), Continuous Sampling of Plant Effluent, development problems in background shielding requirements and related instrument sensitivities resulted in the design of additional shielding and changes in placement of the modules. Also late delivery schedules for vendor and other auxiliary equipment caused the schedule delay. For Item II.F.1(6), Containment Hydrogen Monitor, the design required modification when the original specified hydrogen monitor was replaced with a monitor upgraded for reliability and meeting the regulatory requirements. The redesign requirements along with late delivery schedules of vendor and other auxiliary equipment caused the delay in completion of this item. For II.F.1(3), Containment High Range Monitor, all equipment is onsite but a plant shutdown is required to complete the installation. For Items II.F.1(4),

Containment Pressure Monitor, and II.F.1(5), Containment Water Level Monitor, design modifications and late delivery of equipment contributed to the delay in installation. In addition, a plant outage is required to complete the installation. For Items II.F.1(1) through II.F.1(5), as a compensatory measure, the licensee has currently in operation monitors with shorter ranges than those being installed. However, there is only a small likelihood that the extended range will be necessary in the interim period. For II.F.1(6), as a compensatory measure, the licensee has made provisions for taking grab samples of the reactor containment atmosphere for analysis at on-site facilities.

We find, based on the above evaluation, that: (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the several delays (unexpected design complexity, interface problems, and equipment delays); and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitments should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o 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 effective immediately that* the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein as soon as practicable but no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. *A request for hearing shall not stay the immediate effectiveness of this order.*

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 concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachments:

1. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–05.
2. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–10.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status)[1]
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Refueing outage IV (3/83).
II.B.3	Post-Accident Sampling	do	Install upgrade post-accident sampling capability	December 1983.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.1.2	Auxiliary Feedwater Initiation and Flow Indication.	July 1, 1981	Modify instrumentation to level of safety grade	Refueling outage V (11/84).
II.E.4.2	Containment Isolation Dependability.	do	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Complete.
		do	Part 7-isolate purge & vent valves on radiation signal	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	December 1983.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Refueling outage IV (3/83).
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	December 1983.
II.K.2.10	Safety Grade Trips	July 1, 1981	Install anticipatory reactor trips	Complete.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–10

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status)[1]
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82–12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82–12, dtd. June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [2]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures [2]	Superseded by SECY 82–111	Reference SECY 82–111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific rpts. on relief & safety valve program.	Complete.
II.D.1.3	Block Valve Test Program	do	Submit rept. of results of test program	Do.
II.K.3.30 & 31	SBLOCA Analysis [2]	1 Yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels for Emergency Situations.[2]	Superseded by SECY 82–111	Reference SECY 82–111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support Facilities.[2]	do	do	Do.
III.A.2.2	Meteorological Data [2]	do	do	Do.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Confirmatory Order.

[FR Doc. 83-7764 Filed 3-25-83 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-321 and 50-366]

Georgia Power Co., et al. (Edwin I. Hatch Nuclear Plant, Units 1 and 2); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Georgia Power Company (GPC or the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR-57 and NPF-5 which authorize operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch or the facilities) at steady state reactor power levels not in excess of 2436 megawatts thermal for each unit. The facilities are boiling water reactors located at the licensee's site in Appling County, Georgia.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion. (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Georgia Power Company responded to Generic Letter 82-05 by letters dated April 20, June 7 and 11, 1982, December 20, 1982 and February 11, 1983. The licensee responded to Generic Letter 82-10 by letter dated June 4, 1982. The licensee had previously informed the staff, in a letter dated October 1, 1981 that it had completed the requirement of Item II.D.1.2 concerning submittal of safety relief valve test reports. In the submittals responding to Generic Letters 82-05 and 82-10, the licensee confirmed which of the other items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

There are six items from Generic Letter 82-10 that, as noted in the Table (Attachment 2), have licensee schedules to be determined and are therefore not included in this Order. Some of the items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the remaining items is provided herein: Common to Units 1 and 2 is Item II.E.4.2(7) Containment Isolation Dependability, Position 7.

This item is still under review by NRC. As a consequence, this item, scheduled for completion by July 1, 1981, will be the subject of a future NRC action and is therefore not included in this Order.

For Hatch 1, regarding Generic Letter 82-05, there are seven incomplete items: II.B.3, Post Accident Sampling, II.F.1 (1), (2), (3) and (4), Post Accident Monitors, and II.K.3.22, RCIC Suction Modification and II.E.4.2, Part 7. The licensee's implementation schedule for Items II.B.3 and II.F (3) and (4) is given as the end of the outage following Cycle 5b (also referred to as Cycle 6). This outage is scheduled for completion in mid-February 1983. Items II.F.1 (1) and (2) can be completed with the reactor in operation and are scheduled for completion by March 15, 1983. Item II.K.3.22, for which equipment delivery is expected in June 1983, can also be completed with the reactor in operation and the proposed schedule is September 1983. The reason given for delaying II.B.3 is that the NRC issuance of Regulatory Guide 1.97 imposed additional requirements which resulted in a significant delay in the system design. In addition, a supplier experienced a work stoppage and was unable to meet a scheduled delivery date. The remaining five items for Hatch 1 are being impacted by procurement and documentation delays that have resulted in the completion schedule being delayed as described above. In our judgment, these delays were beyond the control of GPC. For Hatch 2, there are four incomplete items: II.B.3, II.F.1 (1) and (2) and II.K.3.22; these items are included in the seven, discussed above for Hatch 1. The Hatch 2 Cycle 4 reload is scheduled for Spring 1983. The reasons given for the Hatch 2 items and the resultant schedules are the same as for the congruent Hatch 1 items. Therefore, we conclude the delays are justified.

The licensee has provided for interim compensatory measures for all of the items that require a plant hardware modification. In regard to each such hardware item the compensatory measures are as follows:

II.B.3—Two existing systems in place which can provide for adequate post-accident sampling of both reactor coolant and drywell atmosphere.

II.F.1(1)—Interim systems to quantify high level releases and in-plant iodine are in place.

II.F.1(2)—Same as for II.F.1(1).

II.F.1(3)—Post accident gamma radiation monitors installed in the original plant design are available as interm monitoring devices.

II.F.1(4)—Drywell pressure is currently indicated on a recorder which serves as an interim monitoring device.

II.K.3.22—Manual transfer procedures in place, as interim measure, until automatic switchover hardware in operation.

We find, based on the above evaluation, that: (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the several delays (unexpected design complexity, interface problems, and (equipment delays); and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

VI

Accordingly, pursuant to Sections 103, 161i, and 161o 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 effective immediately that the licensee shall:*

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. *A request for a hearing shall not stay the immediate effectiveness of this order.*

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 concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachments:

1. Licensee's Commitments on Applicable NUREG-0737 Requirements from Generic Letter 82-05.
2. Licensee's Commitments on Applicable NUREG-0737 Requirements from Generic Letter 82-10.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's Completion Schedule (or status) [1]	
				Unit 1	Unit 2
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	do	Do.
II.B.3	Post-Accident Sampling	do	Install upgrade post-accident sampling capability	Apr. 1, 1983	Apr. 1, 1983.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete	Complete.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	do	Do.
		do	Part 7—isolate purge & vent valves on radiation signal [2].	Technical exception.	Technical exception.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Mar. 5, 1983	([3]).
		do	(2) Provide capability for effluent monitoring of iodine	do	([3]).
		do	(3) Install in-containment radiation-level monitors	([3])	Complete.
		do	(4) Provide continuous indication of containment pressure.	([3])	Do.
		do	(5) Provide continuous indication of containment water level.	Complete	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	do	Do.
II.K.3.15	Isolation of HPCI & RCIC Modification.	July 1, 1982	Modify pipe break detection logic to prevent inadvertent isolation.	do	Do.
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Sept. 30, 1983	Sept. 30, 1983.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm adequacy of space cooling for HPCI/RCIC	Complete	Complete.
II.K.3.27	Common Reference Level	July 1, 1981	Provide common Reference Level for Vessel Level Instrumentation.	do	Do.

[1] End of outage followed by Cycle 5b, currently scheduled for completion in mid-February 1983.
[2] End of outage following Cycle 3, currently scheduled for Spring 1983.
[3] Not part of Confirmatory Order.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) for Units 1 & 2
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd. June 15,1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd. June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [1]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Unit.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures [1]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief & safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 year after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) for Units 1 & 2
III.A.1.2	Staffing Levels for Emergency Situations. [1]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be Determined.
III.A.1.2	Upgrade Emergency Support Facilities. [1]	do	do	Do.
III.A.2.2	Meteorological Data [1]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not Part of Confirmatory Order.

[FR Doc. 83-7765 Filed 3-25-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3); Order Confirming licensee Commitments on Post-TMI Related Issues

I

The Philadelphia Electric Company (the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR-44 and DPR-56 which authorize the operation of the Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom or the facilities) at steady-state power levels not in excess of 3293 megawatts thermal for each unit. The facilities are boiling water reactors located at the licensee's site in York County, Pennsylvania.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Philadelphia Electric Company responded to Generic Letter 82-05 by letters dated April 15, June 23 and July 8, 1982. The licensee responded to Generic Letter 82-10 by letter dated June 3 and December 15, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

There are six items from Generic Letter 82-10 that, as noted in the Table (Attachment 2), have licensee schedules to be determined and are therefore not included in this Order. Some of the items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the remaining items is provided herein:

II.E.4.2(7) Containment Isolation Dependability, Position 7

This item is still under review by NRC and is therefore not included in this Order. As a consequence, this item, scheduled for completion by July 1, 1981, will be the subject of a future NRC action.

III.D.3.4 Control Room Habitability

Control Room Habitability is a problem at the Peach Bottom site due to the use of liquid-chlorine as a water treatment chemical. The licensee is replacing the chlorine system with a sodium hypochlorite biocide system. The licensee's original January 1, 1983 installation date has been delayed, due to equipment delivery problems, to February 28, 1983. The licensee has compensated for this delay by providing self contained breathing apparatus in the control room for all personnel. Control room personnel have been trained in the use of this equipment in the event of a chlorine release.

We find, based on the above evaluation, that: (1) the licensee has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the delay (equipment delays), and (3) as noted under III.D.3.4, an interim compensatory measure has been implemented.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o 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* effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal

Director at the same address. *A request for a hearing shall not stay the immediate effectiveness of this order.*

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 concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachments

1. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–05.
2. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–10.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [1]	
				Unit 2	Unit 3
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Compete	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions	do	Do.
II.B3	Post-Accident Sampling	do	Install upgrade post-accident sampling capability	do	Do.
II.B.4	Training for Mitigating Core Damage	Oct. 1, 1982	Complete training program	do	Do.
II.E.4.2	Containment Isolation Dependability	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/ normal operation.	do	Do.
		do	Part 7—isolate purge and vent valves on radiation signal [2]	Technical exception.	Technical exception.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Complete	Complete.
		do	(2) Provide capability for effient monitoring of iodine	do	Do.
		do	(3) Install incontainment radiation-level monitors	do	Do.
		do	(4) Provide continuous indication of containment pressure	do	Do.
		do	(5) Provide continuous indication of containment water level	do	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	do	Do.
II.K.3.15	Isolation of HPCI and RICI Modification	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation	do	Do.
II.K/3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus	do	Do.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm adequacy of space cooling for HPCI/RCIC	do	Do.
II.K.3.27	Common Reference Level	July 1, 1981	Provide common Reference Level for Vessel Level Instrumentation	do	Do.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not part of Confirmatory Order.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–10

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.1.3.1	Limit Overtime	Oct. 1, 1982, per Gen. Ltr. 82–12 dated June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82–12, dated June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [2]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures [2].	Superseded by SECY 82–111	Reference SECY 82–111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific repts. on relief and safety valve program	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 and 31	SBLOCA Analysis [2]	1 year after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels for Emergency Situations [2].	Superseded by SECY 82–111	Reference SECY 82–111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support Facilities [2].	do	do	Do.
III.A.2.2	Meteorological Data [2]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licnesee	Modify facity as identified by licensee study	Feb. 28, 1983.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Confirmatory Order.

[FR Doc 83–7766 Filed 3–25–83; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Sacramento Municipal Utility District (the licensee) is the holder of Facility Operating License No. DPR–54 which authorizes the operation of the Rancho Seco Nuclear Generating Station (the facility) at steady-state 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) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the

experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modification, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Sacramento Municipal Utility District responded to the Generic Letter 82-05 by letters dated April 15, May 5, September 20, and December 14, 1982; Sacramento Municipal Utility District responded to the Generic Letter 82-10 by letters dated June 4, September 20 and December 13, 1982. In these submittals, Sacramento Municipal Utility District confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

There are six items from Generic Letter 82-10 that, as noted in the Table (Attachment 2), have licensee schedules to be determined and are therefore not included in this Order. Some of the items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining items is provided herein:

II.B.2 Plant Shielding

This item will be delayed by the licensee and will be completed during the next refueling outage (RO). The RO is scheduled to start in February 1983 and to continue for about six months. The delay was caused by late delivery of hardware necessary to convert two manual valves into remote operated valves. A plant shutdown is required to make the modifications. In addition, difficulties in manpower availability from consultants and the licensee organizations contributed to the delay. The licensee stated that there is an extremely low probability of an occurrence that would yield the source terms that established the requirements that the valves be remotely operated. The licensee also stated that for design basis events (more likely events), the dose rate would allow limited but ample time to operate the two valves manually when required.

II.B.3 Post Accident Sampling

The pacing equipment for the primary coolant sampling is the sample and control panels which are scheduled to arrive by the end of 1982. This equipment will be installed during the February 1983 RO. As a compensatory measure, interim arrangements have been made for offsite analysis of high level activity samples.

II.E.1.2 Auxiliary Feedwater (AFW) Initiation and Flow Indication

Safety grade AFW initiation and flow indication is part of an expanded AFW system upgrade at Rancho Seco. The upgrade will include modifications (safety grade control) that are beyond those suggested in NUREG-0737, and accordingly the expanded upgrade will not be completed until the 1984 RO. However, the safey grade initiation and flow indication portion will be installed during the February 1983 RO. Late delivery of equipment contributed to the delay. Existing control grade AFW initiation and flow indication provide adequate interim protection.

II.E.4.2.7 Purge Valve Radiation Signal

Difficulties in the selection of a vendor for the monitor and subsequent delays by the selected vendor contributed to the delay in completion of the installation. The monitor is expected to be delivered and installed during the February 1983 RO. As a compensatory action, the plant currently operates with the purge valves closed.

II.F.1(1-6) Accident Monitoring (6 Items)

For all six items the licensee has experienced delays in delivery of equipment. Delivery of all the equipment is expected in the Fall of 1982 in time for installation during the February 1983 RO. The licensee has stated that existing instrumentation is adequate as a compensatory measure until the new instrumentation installations are completed.

II.K.2.10 Safety Grade Anticipatory Trip

The initial safety grade design utilized safety grade pressure switches which the licensee had concluded at that time could not be obtained. The design was then revised to incorporate pressure transmitters and electronic comparators. In its April 15, 1982 submittal, the licensee committed to install the safety grade trip during the February 1983 RO and identified the delivery of the electronic comparators as the problem which was delaying the completion of the installation until the February RO. However, recently the licensee's design review discovered the new design was not testable during operation. Therefore, the licensee decided to revise the design to incorporate the previous use of the safety grade pressure switches which are testable. The licensee stated that approximately 60 weeks is required to obtain qualified pressure switches.

The licensee proposes to complete the loss of feedwater and turbine trip modifications to the extent possible without the qualified pressure switches and to utilize nonqualified switches in their place during the February 1983 RO. The installation of the qualified pressure switches will then be completed during the November 1984 RO.

Existing trips from turbine trip and loss of main feedwater through control grade pressure sensors provide interim protection until the February 1983 RO.

The licensee stated that the interim design to be completed during the February 1983 RO is fail safe and that a single failure will not prevent the system from performance of its protective action when required.

II.D.1.2 Relief Valve and Safety Valve Test Programs

The analysis relating relief and safety valve pressure and blowdown to EPRI test data will be provided March 1983. Final ring settings for the valves will be made during the next RO (starting February 1983). The licensee has done a preliminary evaluation of valve performance for the current ring settings of the safety valves. The licensee stated

that they feel that the preliminary evaluation, pending completion of the more rigorous analysis, confirms their position that the valves will perform their intended function in a satisfactory manner as required by the Rancho Seco Technical Specifications.

We find, based on the above evaluation, that: (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for th several delays (unexpected design complexity, interface problems, and equipment delays); and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitments should be confirmed by Order.

IV.

Accordingly, pursuant to Sections 103, 161i, and 161o 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 effective immediately that* the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V.

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director at the same address. *A request for hearing shall not stay the immediate effectiveness of this* Order.

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 concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachments

1. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–05.

2. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–10.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.3.1	Simulator exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	February 1983.[1]
II.B.3	Post-accident sampling	do	Install upgrade post-accident sampling capability	Do.
II.B.4	Training for mitigating core damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.1.2	Aux. feedwater initiation & flow indication.	July 1, 1981	Modify instrumentation to level of safety grade	February 1983.[1]
II.E.4.2	Containment isolation dependability.	do	Part 5—lower containment pressure setpoint to level compatible w/ normal operation.	Complete.
		do	Part 7—isolate purge & vent valves on radiation signal	February 1983.[1]
II.F.1	Accident monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Do.[1]
		do	(2) Provide capability for effluent monitoring of iodine	Do.[1]
		do	(3) Install in-containment radiation-level monitors	Do.[1]
		do	(4) Provide continuous indication of containment pressure	Do.[1]
		do	(5) Provide continuous indication of containment water level	Do.[1]
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.[1]
II.K.2.10	Safety grade trips	July 1, 1981	Install anticipatory reactor trips	November 1984.[1]

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–10

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd. June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [2]	Superseded by Proposed Rule dtd. Aug. 30, 1982.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures [2].	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be Determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief & safety valve program	March 1983.
II.D.1.3	Block Valve Test Program	do	Submit report on results of test program	Complete.
II.K.3.30 & 31	SBLOCA Analysis [2]	Jan. 1, 1983 or 1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels for Emergency Situations [2].	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be Determined.
III.A.1.2	Upgrade Emergency Support Facilities [2].	do	do	Do.
III.A.2.2	Meteorological Data [2]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Confirmatory Order.

[FR Doc. 83-7769 Filed 3-25-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Company and the Cleveland Electric Illuminating Company; (Davis-Besse Nuclear Power Station, Unit No. 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

I.

Toledo Edison Company and Cleveland Electric Illuminating Company (the licensees) are holders of Facility Operating License No. NPF-3 which authorizes the operation of the Davis-Besse Nuclear Power Station, Unit 1 (the facility) at steady-state power levels not in excess of 2772 megawatts thermal. The facility is a Babcock and Wilcox (B&W) designed 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) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements". Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitteed by the licensees, scheduled to be completed after June 30, 1981. Generic Letters 82-05 and 82-10 dated March 17, 1982 and May 5, 1982 are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion after June 30, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion. (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III.

Toledo Edison Company responded to Generic Letter 82-05 by letters dated May 8, 1982, June 10, 1982, September 17, 1982, November 30, 1982, January 6, 1983, and February 3, 1983 and to Generic Letter 82-10 by letter dated June 30, 1982. In these submittals, Toledo Edison Company confirmed that some of the items identified in the Generic Letters have been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensees' schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information. We have reviewed the incompleted items and provide below a discussion on each item. We encourage the licensees to make every attempt to complete these items before the revised scheduled dates.

There are six items from Generic Letter 82-10 that, as noted in Attachment 2, have licensee schedules which are yet to be determined. These items are, therefore, not included in this Order. The licensees consider some of the items addressed in this Order to be completed or to require no modifications. These items are so noted in Attachments 1 and 2. The staff's evaluation of the licensees' delays for implementation of the remaining items is provided herein.

Item II.B.3 Post-Accident Sampling

The licensees have completed all work requiring an outage for the Reactor Coolant Sampling System. However, the licensees have experienced extensive delays for the operator's panel. This panel has undergone substantial redesign because of human factors considerations and the current estimated supplier delivery date for the panel is late May 1983. No firm delivery date will be available until January 1983. Using the estimated delivery date and the estimated construction time and startup testing and system checkout time required, the licensees commit to completing this item by December 31, 1983.

The Containment Air Sampling System will also be completed by December 1983. Equipment for this system was delivered in March 1982 but the grab sample station must be relocated to permit this function to proceed during the recirculation phase after a LOCA and to obtain a representative sample. The licensees, however, have experienced delays in delivery of valves required for this modification. Current estimated delivery date for the valves is the end of May 1983. Based on the estimated delivery date, construction time and system testing and checkout the licensees commit to completing this item by December 31, 1983. All equipment required within containment has been installed. The on-line feature of the Containment Air Sampling System is now operational.

The licensees will maintain interim systems operational until the new systems are totally completed and are operational. The NRC has found these interim measures acceptable.

Items II.F.1.1 and II.F.1.2 Post-Accident Monitoring

The licensees will complete these items by December 1983. All system components have been delivered and accepted and all outage related work is completed. However, substantial system preoperational testing must be completed before the system can be declared operational. It is also necessary to redesign a portion of the system to resolve a system design deficiency. These efforts are presently in progress. The licensees were unable to complete this item during the last refueling outage because of the priority workload needed for other items. Until these new systems are operational, the licensees will maintain existing effluent monitors operational. Although these existing monitors do not have the range required of the new system, there is only a small likelihood that the extended range will be necessary in the short period before the new system is operational.

Item II.F.1.5 Post-Accident Monitoring

Both narrow and wide range level indications have been installed and are operating. The licensee has been informed that the environmental and seismic equipment qualification testing has been completed but that documentation will not be available until late April 1983. The licensee will complete this item by June 15, 1983.

We find, based on the above evaluation, that: (1) The licensees have taken corrective actions regarding the delays and have made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the several delays (unexpected design complexity, interface problems, and equipment delays); and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore,

the licensees' commitments should be confirmed by Order.

IV.

Accordingly, pursuant to Sections 103, 161i, and 161o 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 effective immediately that* the licensees shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensees' submittals noted in Section III herein no later than the dates in the Attachments.

V.

The licensees may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director at the same address. *A request for hearing shall not stay the immediate effectiveness of this order.*

If a hearing is requested by the licensees, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensees should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 14th day of March 1983.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Attachments

1. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–05.
2. Licensee's Commitments on Applicable NUREG–0737 Requirements from Generic Letter 82–10.

ATTACHMENT 1.—LICENSEES' COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Requirement	Licensees' completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Completed.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Complete; licensee has determined that plant is in compliance without any modifications.
II.B.3	Post-Accident Sampling	do	Install upgrade post-accident sampling capability	Reactor Coolant Sampling System—Dec. 31, 1983. Containment Air Monitoring System. On line sampling/analysis—completed. Grab sampling—Dec. 31, 1983.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Completed.
II.E.1.2	Aux. Feedwater Initiation & Flow Indication.	July 1, 1981	Modify instrumentation to level of safety grade	Do.
II.E.4.2	Containment Isolation Dependability.	do	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7-isolate purge & vent valves on radiation signal	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Dec. 31, 1983.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Completed.
		do	(4) Provide continuous indication of containment pressure	Do.
		do	(5) Provide continuous indication of containment water level	June 15, 1983.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Completed.
II.K.2.10	Safety Grade Trips	July 1, 1981	Install anticipatory reactor trips	Do.

ATTACHMENT 2.—LICENSEES' COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–10

Item	Title	NUREG–0737 schedule	Requirement	Licensees' completion schedule (or status)
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82–12, dtd. June 15, 1982.	Completed.
I.A.1.3.2	Minimum Shift Crew.[1]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures.[1]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	Apr. 1, 1982	Submit plant specific reports on relief and safety value program	Completed.
II.D.1.3	Block Valve Test Program	July 1, 1982	Submit report of results of tese program	Do.
II.K.3.30 & 31	SBLOCA Analysis.[1]	1 yr. after staff approval of model	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels for Emergency Situations.[1]	Superseded By SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.A.1.2	Upgrade Emergency Support Facilities.[1]	do	do	Do.
III.A.2.2	Meteorological Data.[1]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Completed.

[1] Not Part of Confirmatory Order.

[FR Doc. 83–7772 Filed 3–25–83; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19619; SR-Amex-83-2]

American Stock Exchange, Inc.; Proposed Rule Change

March 21, 1983.

In the matter of; American Stock Exchange, Inc., 86 Trinity Place, New York, NY 10006; Order Approving Proposed Rule Change.

The American Stock Exchange, Inc. ("Amex") submitted on February 2, 1983, 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 modify the existing Amex securities distribution standards as set forth in Sections 102 and 105 of the Amex Company Guide. Under the proposal the required public float for common stock issues would be increased from 400,000 shares to 500,000 shares.[1] The existing requirement that at least 150,000 shares must be held in lots of 100 to 500 shares would be changed to lots of 100 to 1,000 shares. The required minimum number of stock holders would be reduced from 1,200 to 1,000. Similar changes would be made with respect to the requirements for warrants listed on the Exchange.

In addition, alternative volume-based listing criteria would be available under the proposal, where a company is unable to provide specific data evidencing that shareholder distribution criteria as described above have been met. Under the alternative standards, the Amex would be able to consider listing a company's securities if the company had: (i) A minimum of 500,000 common shares publicly held, (ii) a minimum of 800 stockholders, and (iii) a daily trading volume in the issue to be listed of 2,000 shares or more for the six months preceding the date of application. The Amex states that, under the alternative provisions, it would not consider as issue for listing unless the issue is suitable for auction market trading. A security that trades infrequently and lacks a reasonably wide distribution would not be considered for listing even through average daily trading volume amounted to 2,000 shares or more.

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. 19501, February 10, 1983) and by publication in the **Federal Register** (48 FR 7342, February 18, 1983).[2] No comments were received with respect to the proposed rule filing.

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.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7637 Filed 3-25-83; 8:45 am]

BILLING CODE 8010-01-M

[1] The Amex, for the purposes of this rule, defines public float to mean shares outstanding exclusive of holdings of officers, directors, controlling shareholders, and other concentrated or family holdings.

[2] The Amex originally filed a proposed rule change relating to Amex listing standards, a predecessor to the instant rule proposal, on June 17, 1982 (SR-Amex-82-9) (Securities Exchange Act Release No. 18559; June 30, 1982; 47 FR 29917, July 9, 1982). The Amex withdrew that filing by letter to the Commission from Benjamin R. Krause, Senior Vice President, Amex, dated February 1, 1983.

Philadelphia Stock Exchange, Inc.; Unlisted Trading Privileges

March 21, 1983.

In the matter of application of the Philadelphia Stock Exchange, Inc., for unlisted trading privileges in certain securities, Securities Exchange Act of 1934; and of opportunity for hearing.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Baker International Corp (Delaware) Common Stock, $1 Par Value (File No. 7-6546)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 11, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7636 Filed 3-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19623; File No. SR-NASD-81-5]

Self-Regulatory Organizations; Amended Proposed Rule Change By National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 4, 1983, the National Association of Securities Dealers, Inc. ("Association") filed with the Securities and Exchange Commission ("Commission") the amended proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change and amendments thereto from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association is proposing an amendment to the proposed rule change ("proposal") to the Policy of the Board of Governors on Venture Capital and Other Investments by Broker/Dealers Prior to Public Offerings ("Venture Capital Policy" or "Policy") under Article III, Section 1 of the Rules of Fair Practice of the Association which was filed with the Commission on April 10, 1981. The amendment to the proposal will appear in the Interpretation of the Board of Governors—Review of Corporate Financing ("Interpretation") under Article III, Section 1 of the NASD Rules of Fair Practice.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

amended statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.*

The Association is charged under both Sections 15A(b)(2) and 15(A)(b)(6) of the Securities Exchange Act of 1934 with the responsibility of promulgating rules which prevent fraudulent and manipulative practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and generally protect investors. The Venture Capital Policy was designed to further these purposes by, among other restrictions, prohibiting a member or person associated with a member which acquired securities as a venture capital investment from participating in a subsequent public offering of those securities.

The proposal deleted the Policy under the rationale that the restrictions contained in Rule 144 under the Securities Act of 1933, Schedule E under Article IV, Section 2 of the By-Laws of the Association, and the Interpretation obviate the necessity for the Venture Capital Policy. However, upon reconsideration, it was determined that restrictions are necessary where a member or officer, director or general partner of a member which has acquired securities in a privately-held company seeks to act both as a selling shareholder and participant in the initial public distribution of the company's securities.

The rationale underlying the amendment is that a conflict may be present when a member recommends that its customers purchase securities in the initial public offering of an issuer at the same time the member is attempting to divest itself of its privately-acquired personal holdings in that issuer. Furthermore, there is the potential for a member to profit on unfair terms when it sells securities it acquired in a private offering at an arbitrarily determined public offering price.

The proposed amendment would eliminate the potential for unfair practices by prohibiting the member from selling its holdings in the issuer in the initial public offering or for a period of twelve months following the effective date of the offering. It is believed that during the twelve month lock-up, the price of the securities will move to a level which reflects the fundamental position of the company and its future prospects. In addition, at the end of the twelve month lock-up period, information will be available regarding the performance of the issuer (i.e. Form 10–Q and Form 10–K) on which potential buyers may base their investment decisions. Because the amendment will eliminate the potential for unfair business practices, it represents a fulfillment of the Association's statutory obligation under the 1934 Act to prevent fraudulent and manipulative practices.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* Since the amendment proposes venture capital restrictions not present in the proposal, it may be perceived as having a greater impact on competition than the proposal. However, the amendment merely restricts the sale of members' privately-acquired securities when the member seeks to participate in the initial public distribution of those securities. This is less restrictive than Section (3) of the existing Venture Capital Policy which imposes similar restrictions on a member's participation in any public offering, regardless of whether it is the initial public offering. Furthermore, because the amendment will reduce the potential for abuse in a conflict of interest situation, the Association believes that any burden on competition is in furtherance of the Association's obligations under the Act.

(C) *Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others.* The Association filed the proposal with the Commission on April 10, 1981. The proposal was published for comment by publication in Securities Exchange Act Release No. 17734 (April 20, 1981), and by publication in the **Federal Register** 46 FR 23180 (April 23, 1981). No comments were received on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 22, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–7877 Filed 3–25–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19615; File No. SR–MSTC–82–19]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Securities Trust Co.; Changes in MSTC's Audit Rule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 10, 1982, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 17, Sections 1 and 2 of the Rules of the Midwest Securities Trust Company are hereby amended as follows:

Additions italicized—[Deletions Bracketed]

Rule 17—Audits

Annual Audit

Sec. 1. Delete in its entirety. *The annual financial statements of the Corporation shall be audited by a firm of independent public accountants selected by the Board of Directors of the Corporation. Such audit shall be conducted in accordance with generally accepted auditing standards.*

[Operational Audit] *Review of Internal Accounting Controls*

Sec. 2. Delete in its entirety. *A study and evaluation of the system of internal accounting controls pertaining to participants' security positions and related money balances shall be conducted annually by independent public accountants. Such study and evaluation shall be conducted in accordance with standards established by the American Institute of Certified Public Accountants.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the amendment to MSTC Rule 17, Section 1 pertaining to the Annual Audit by Arthur Young & Company is to adopt the language of the American Institute of Certified Public Accountants with respect to the audit of financial statements of a corporation.

The amendment to MSTC Rule 17, Section 2 is consistent with the SEC guidelines stated in Release No. 16900 dated June 17, 1980 regarding clearing corporations' responsibilities of adopting procedures to ensure the safeguarding of assets and the reliability of MSTC participants' reports.

The amendment to Section 2 will allow MSTC the flexibility to physically counting or confirming securities held by MSTC for the accounts of participants and the confirming of all open transactions of participants with MSTC over a period of time versus a count at a specific point in time. The proposed change is believed to be more practical in that the emphasis of the Arthur Young Audit will be on the review of MSTC's internal accounting controls rather than the verification of positions and balances as of a specific date.

The rule change is consistent with Section 17A of the Act in that the amendment is designed to further promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of MSTC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authoritiy.

Dated: March 18, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7834 Filed 3-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19614; File No. SR-MCC-82-15]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Clearing Corp.; Changes in MCC's Audit Rule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 4, 1982 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 23, Sections 1 and 2 of the Rules of the Midwest Clearing Corporation are hereby amended as follows:

Additions italicized—[Deletions Bracketed]

Rule 23—Audits

Annual Audit

Sec. 1. Delete in its entirety. *The annual financial statements of the Corporation shall be audited by a firm of independent public accountants selected by the Board of Directors of the Corporation. Such audits shall be*

conducted in accordance with generally accepted auditing standards.

[Operational Audit] *Review of Internal Accounting Controls*

Sec. 2. Delete in its entirety. *A study and evaluation of the system of internal accounting controls pertaining to participants' security positions and related money balances shall be conducted annually by independent public accountants. Such study and evaluation shall be conducted in accordance with standards established by the American Institute of Certified Public Accountants.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the amendment to MCC Rule 23, Section 1 pertaining to the Annual Audit by Arthur Young & Company is to adopt the language of the American Institute of Certified Public Accountants with respect to the audit of financial statements of a corporation.

The amendment to MCC Rule 23, Section 2 is consistent with the SEC guidelines states in Release No. 16900 dated June 17, 1980 regarding clearing corporations' responsibilities of adopting procedures to ensure the safeguarding of assets and the reliability of MCC's participants' reports.

The amendment to Section 2 will allow MCC the flexibility of physically counting or confirming securities held by MCC for the accounts of participants and the confirming of all open transactions of participants with MCC over a period of time versus account at a specific point in time. The porposed change is believed to be more practical in that the emphasis of the Arthur Young & Company audit will be on the review of MCC's internal accounting controls rather than the verification of positions and balances as of a specific date.

The rule change is consistent with Section 17A of the Act in that the amendment is designed to further promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of MCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rules change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 18, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7835 Filed 3-25-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

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 three-fourths (11¾) percent for the fiscal quarter beginning April 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 April-June quarter of 1983, this rate will be ten and five-eights (10⅝) percent.

Dated: March 21, 1983.

Edwin T. Holloway,

Associate Administrator for Finance & Investment.

[FR Doc. 83-7849 Filed 3-25-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2078; Amdt. No. 2]

California; Declaration of Disaster Loan Area

The above numbered Declaration (FR 8167) and Amendment #1 (see 48 FR 9610) are amended to include the Counties of Butte, Glenn, Kern, Kings, San Bernardino, Sutter and Tehama in the State of California as a result of damage caused by result of severe storms, high tides, wave action, mudslides and flooding beginning on January 21, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on April 11, 1983, and for economic injury until the close of business on November 9, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: March 8, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-7845 Filed 3-25-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2079, Amdt. No. 1]

Mississippi; Declaration of Disaster Loan Area

The above numbered Declaration (48 FR 8168) is hereby amended to show the closing date for filing applications for physical damage as of the close of business April 18, 1983, and for economic injury, as of the close of business November 16, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: March 16, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-7846 Filed 3-25-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0449]

First Princeton Capital Corp.; Issuance of a Small Business Investment Company License

On July 8, 1982, a notice was published in the **Federal Register** (47 FR 29753) stating that an application has been filed by First Princeton Capital Corporation, 227 Hamburg Turnpike, Pompton Lakes, New Jersey 07442, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business on July 23, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0449 on March 8, 1983, to First Princeton Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-7843 Filed 3-25-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5190]

Ideal Financial Corp.; Issuance of a Small Business Investment Company License

On March 25, 1981, a notice was published in the **Federal Register** (46 FR 18636) stating that an application has been filed by Ideal Capital Corporation, 85 Grand Canal Drive, Miami, Florida 33144, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license as a small business investment company. The name in the notice should have stated Ideal Financial Corporation.

Interested parties were given until close of business on April 9, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04-5190 to Ideal Financial Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1983.

Edwin T. Holloway,

Associate Administrator for Investment.

[FR Doc. 83-7844 Filed 3-25-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 07/07-0088]

Landmark Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Landmark Capital Corporation, 7733 Forsyth Boulevard, Suite 1800, St. Louis, Missouri 63105, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The officers, directors and shareholders of the Applicant are as follows:

Name and address	Title	110,000 shares issued and fully paid (percent)	250,000 shares issued and fully paid (percent)
S. Lee Kling, 802 Bluespring Lane, St. Louis, MO 63131.	Chairman of the Board, Vice President, and Director.	6.81	3.00
Alan G. Johnson, 12801 Coulange Court, St. Louis, MO 63141.	President, Secretary and Director.	1.15	.50
Michael E. Thaman, 10 South Brentwood, St. Louis, MO 63105.	Treasurer	0	0
John C. Craft, 1262 Stratford Road, Kansas City, MO 64113.	Director	2.27	1.00
Harvey A. Friedman, 2 Prado, Ladue, MO 63124.	do	4.54	2.00
Joseph C. Green, 718 Pearson Drive, Springfield, MO 65804.	do	2.27	1.00
Franklin A. Jacobs, 1950 Log Cabin Lane, St. Louis, MO 63124.	do	4.54	2.00
Sidney E. Rich, 10167 Winding Ridge Road, St. Louis, MO 63124.	do	2.27	1.00
Edward R. Spence, 12315 Boothbay Court, Creve Coeur, MO 63141.	do	2.27	1.00
Kenneth G. Vonderahe, 10600 Hackamore, St. Louis County, MO 63128.	do	2.27	1.00

The Applicant proposes to begin operations with private capital, after reorganization expenses, of between approximately $1,035,000 and $2,435,000 depending upon the success of a public offering of its shares. The Applicant will conduct its operations in the State of Missouri.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accord with the Act and Regulations.

Notice is hereby given that any person may on or before April 12, 1983 submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in St. Louis, Missouri.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-7847 Filed 3-25-83; 8:45 am]

BILLING CODE 8025-01-M

Las Vegas District Advisory Council; Public Meeting

The Small Business Administration, Las Vegas District Advisory Council will hold a public meeting on May 18, 1983, at the Small Business Administration, located at 301 E. Stewart, Downtown Station, Post Office, 3rd Floor, Las Vegas, Nevada, from 10:00 a.m. to 12:00 noon to discuss such matters an may be presented by Council members, staff of the Small Business Administration, or others present.

For further information, write or call David W. Huston, Acting District Director, U.S. Small Business Administration, 301 E. Stewart, Las Vegas, Nevada 89125 (702) 385-6611.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

March 21, 1983

[FR Doc. 83-7848 Filed 3-25-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 851]

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1982

Correction

In FR Doc. 83-6731 beginning on page 11576 in the issue of Friday, March 18, 1983, make the following corrections:

On page 11593 insert the heading "Agency: Department of Energy" before the entry in the table for W. Kenneth Davis; and insert the heading "Agency: Export-Import Bank of the U.S." before the entry for William H. Draper III.

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

Computer Matching Program; State Wage Match/Annual Income Questionnaire Control

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given that the VA OIG (Veterans Administration Office of Inspector General), is conducting a computer matching program using VA records containing limited identification data concerning VA pension and compensation recipients with wage records maintained by departments or bureaus of employment security in States where employers report wages paid to employees. The goals of this match are: (1) To detect unwarranted benefit payment under title 38, United States Code which results when income from earnings exceeds allowable limits for the benefit received; and (2) To assess the effectiveness of Annual Income Questionnaires as an accurate self-reporting-of-income mechanism by beneficiaries. For the information of all concerned, the text of the VA matching program report, describing the computer match, follows. In accordance with the OMB matching guidelines, dated May 11, 1982, copies of this report are being sent to OMB and both houses of Congress.

FOR FURTHER INFORMATION CONTACT: Jim Durnil, Office of Inspector General (52), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-3110 or 3164.

Dated: March 21, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.

Deputy Administrator.

Office of Inspector General—Computer Matching Program

State Wage Match/Annual Income Questionnaire Control

Authority For And Purpose of the Program: The VA Office of Inspector General (OIG), pursuant to the authority granted by the Inspector General Act of 1978 (Pub. L. 95-452), has initiated a computer matching program. This program is designed to identify the unwarranted payment of VA pension and certain compensation benefits which results when beneficiaries underreport or fail to report earned income.

Description of the Matching Program: This matching program involves computer matches of state unemployment compensation wage records (quarterly wages reported by employers of individuals covered by unemployment compensation insurance) and VA compensation and pension program records. The social security numbers of VA pension and certain compensation recipients will be released to State departments and bureaus of employment security for matching with state-maintained wage records. The wage information obtained through these matches and returned to the VA by the States will be verified by VA with beneficiaries, employers, and by reviewing VA claim records. In those cases where the evidence indicates that income was inaccurately reported, the beneficiary will be notified and when appropriate, adjustments will be made in benefit payments. Cases involving potential criminal acts will be referred to the Department of Justice for prosecutive consideration. These matches may be conducted on a recurring basis.

Files to be Used in this Matching Program are: a. Veterans Administration: Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22/28), 47 FR 372.

b. State Departments/bureaus/divisions of employment security wage records of the States of Illinois and Georgia. Future matches authorized by the VA Inspector General will entail use of wage records from other States.

Objectives to be Met by the Matching Program: The objectives of this matching program are to identify beneficiaries who have received, but do not qualify for, certain VA pension payments or benefits based on individual unemployability. Ineligibility for income dependent benefits occurs when income exceeds allowable limits or levels for the benefits received. Ineligibility for benefits based on unemployability arises when the evidence indicates the beneficiary is, or could be, substantially and gainfully employed.

The initial matching program involves the States of Georgia and Illinois employment security wage records; however, results may support further matches involving other States.

Procedures of Matching Program: Step 1. Development of Data Files. Selected data are to be extracted from the VA Compensation and Pension master records to allow identification of the payee, current award information and estimated and actual income reported by the payee in support of the pension or compensation claims.

Step 2. Computer Processing. Social security numbers have been released and matched with the identification data in Georgia and Illinois State employment security wage records. No names and addresses have been released. Future matching with other states may include release of other identifying data such as date of birth and sex, but in no case will name and address be released. Initial match results have identified the employer(s) of and wages paid to matched individuals. A printout and magnetic tape record file of the matches and related employer/wage data have been returned to the OIG. Further computer processing of the matches have or will

associate the income reported to the VA by the payee with the wages reported by employers to the State.

Step 3. Verification of Wages Reported Paid by Employers. Employers may be contacted to verify the identity of the employee, the period of employment and the wages paid. Employers will be contacted only if wages reported by the employer to the State indicate that the beneficiary's income exceeds the maximum allowable for the benefit received (e.g. improved law pension, protected pension) or would affect the amount of entitlement (improved law pension). In service-connected unemployability cases, earnings will be verified when substantial and/or continuous employment is indicated. Substantial employment would be considered if reported earnings exceed $1,000 in any one quarter.

If the employer is contacted he/she will be informed that the information is to be used in connection with the administration of benefits under Title 38, U.S.C. If the employer fails or refuses to respond to the request, the case will be referred to the VA Regional Office having jurisdiction for followup with the beneficiary, including field examination if necessary, and disposition.

Step 4. Analysis of Data and Adjudication of Claims. Discrepancies between earned income reported by the payee in support of a VA claim and earned income reported by employers will be analyzed. Pension cases showing discrepancies in earned income which would affect the beneficiaries entitlement or award will be referred to the Department of Veterans Benefits (DVB) for review. Where income exceeds allowable limits or levels for the benefit received appropriate adjustments will be made in benefit payments. In service-connected unemployability cases, earnings and employment will be analyzed to determine if continued unemployability benefits are warranted.

Step 5. Litigation. The merits of each claim remaining unresolved will be reviewed and, if appropriate, the claim will be referred for followup action by a U.S. Attorney or VA District Counsel. Where there are reasonable grounds to believe there has been a violation of criminal law, the matter will be referred to the appropriate authorities for investigation and consideration of criminal prosecution.

Step 6. Records Maintained by DVB and DM&S. Any manual records resulting from the match will be maintained by DVB and DM&S. As claims are settled or repaid, the various files will be updated to reflect these changes.

Date of Matching Program: In accordance with OMB Matching Guidelines, the computer match was initiated after the publication of the routine use notice for the system of records involved in the matching program. A pilot matching project began in late 1982 in Georgia and Illinois. VA verification and adjudication actions related to the match should be completed in Fiscal Year 1983. Subsequent matches may be conducted with additional States in 1983 as determined by the VA OIG.

Disclosure of Records: a. VA System of Records Extracts to OIG. The transfer of extracts from the VA Compensation, Pension, Education and Rehabilitation Records to the OIG for performing the matches is an intra-agency "need-to-know" disclosure permitted under 5 U.S.C. 552a(b)(1) and is consistent with the statutory language creating the OIG which is found in Section 6(a)(1) of Pub. L. 95–452.

b. Disclosure of Identification Data to States. Disclosure of identification data from VA system of records 58 VA 21/22/28 will be made pursuant to Routine Use Number 43. This routine use was published in the **Federal Register** of September 15, 1982. Under this routine use, except for name and address of a beneficiary, the Inspector General may disclose social security number, date of birth, and such other identifying information for which disclosure is deemed necessary by the Inspector General of the VA. The matching departments or bureaus will agree, prior to disclosure, to certain conditions governing the use of the matching file records including: that the matching records disclosed by the VA will remain the property of the VA and be returned at the end of the matching program (or destroyed as appropriate); that the records will be used and accessed only to match the file(s) previously agreed to; that the States will not use VA records to extract information concerning individuals for any purpose other than that for which the match is being conducted; and that the VA records will not be duplicated or disseminated within or outside the State departments or bureaus unless authorized in writing by the VA.

c. Disclosure of Identification Data to Employers. Disclosure of limited identifying data to employers may be necessary to verify the accuracy of the matches and wages paid. Disclosure of this information will be made pursuant to Routine Use Number 9 in VA system of records 58 VA 21/22/28.

d. Transfer of Match Products From OIG to DVB. The transfer of the products of the match (i.e., name, SSN, wages reported paid by employers, etc.) from the VA OIG to DVB is an intra-agency "need-to-know" disclosure permitted under 5 U.S.C. 552a(b)(1). Valid match information will become a part of the appropriate VA system of records. Invalid match information will be erased or destroyed.

Efforts Taken To Protect Against Unauthorized Access to or Disclosure of Personal Records

All records will be safeguarded in accordance with the National Bureau of Standards' *Federal Information Processing Standards 41 and 31.* All information collected by the VA in this matching program will be acquired, controlled, and used in compliance with the Privacy Act of 1974 (5 U.S.C. 552a), 38 U.S.C. 3301 and 4132, implementing VA regulations, and the OMB Matching Guidelines dated May 11, 1982. Printed listings will be maintained in locked file cabinets with access limited to those VA staff with a need to know. If fraud is suspected among cases identified by the match, information obtained through the match and followup verifications will be disclosed to VA District Counsels or the Department of Justice. Computerized records generated by this match will be destroyed after all adjudicative and/or legal proceedings are completed.

[FR Doc. 83-7831 Filed 3-25-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 60
Monday, March 28, 1983

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

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, 10 a.m., March 31, 1983.

LOCATION: Third floor hearing room, 1111 13th Street, NW., Washington D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Alternative Test Method/General Wearing Apparel Standard*
The Staff will brief the Commission on comments received in response to proposed enforcement rules which would allow persons and firms required to perform testing under flammability stardards for clothing textiles and children's sleepwear to use apparatus and procedures other than those set forth in the applicable standard under specified conditions.
2. *Upholstered Furniture Status*
The Staff will brief the Commission on the status of the upholstered furniture project.

(For a recorded message containing the latest agenda information, call 301 492-5709.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207; 301-492-6800.

[S-427-83 Filed 3-24-83; 3:34 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, March 30, 1983.

LOCATION: Third floor hearing room, 1111-18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Space Heaters—Revocation or Exemption Applications:

The Commission will consider 23 applications from state and local jurisdictions for exemption from the preemptive effects of the Commision's unvented gas-fired space heater safety standard.

(For a recorded message containing the latest agenda information, call 301-492-5709.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207; 301-492-6800.

[S-428-83 Filed 3-24-83; 3:34 pm]

BILLING CODE 6355-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

March 23, 1983.

TIME AND DATE: 10 a.m., March 30, 1983.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Consent Power Agenda—767th Meeting, March 30, 1983, Regular Meeting (10 a.m.)

CAP-1. Project No. 6795-000, Pownal Hydropower Commission
CAP-2. Project No. 6830-000, Woodks Creek, Inc., et al.
CAP-3. Project No. 5786-001, Lawrence J. McMurtrey
CAP-4. Project No. 289-005, Louisville Gas & Electric Co.
CAP-5. Project No. 1984-010, Wisconsin River Power Co.
CAP-6. Project No. 2930-003, Idaho Power Co.
CAP-7. Project No. 5363-001, Warrensburg Board and Paper Corp.
CAP-8. Project No. 3738-002, Mitchell Energy Co., Inc.; Project No. 3813-000, Energenics Systems, Inc.; Project No. 4145-000, City of Valentine, Nebraska; Project No. 4225-000, Ainsworth Irrigation District
CAP-9. Omitted
CAP-10. Project No. 1388-003, Southern California Edison Co.
CAP-11. Project No. 6277-001, William L. Alcorn
CAP-12. Project No. 5897-000, Long Lake Energy Corp.; Project No., 6452-000, Connellsville Area School District
CAP-13. Project Nos. 2934-002 and 003, New York State Electric & Gas Corp.
CAP-14. Docket No. HB26-63-3-003, Public Service Co. of Colorado
CAP-15. Omitted
CAP-16. Docket No. ER83-297-000, Arkansas Power & Light Co.
CAP-17. Docket No. ER83-298-000, Centel Corp., Western Power Division
CAP-18. Docket No. ER83-299-000, Public Service Co. of New Mexico
CAP-19. Docket Nos. ER83-301-000 and ER82-427-000, Southern California Edison Co.
CAP-20. Omitted
CAP-21. Docket No. ER83-63-001, Appalachian Power Co.
CAP-22. Docket Nos. ER77-347-004, 005 and 006, Wisconsin Power & Light Co.
CAP-23. Docket No. ER82-404-000, Upper Peninsula Power Co.,
CAP-24. Docket No. ER81-779-003 (phase 1), Pennsylvania Power Co.; Docket No. ER82-79-004 (phase 1), Ohio Edison Co.
CAP-25. Docket Nos. ER81-577-000, 008, ER82-180-000 and 001, Arkansas Power & Light Co.
CAP-26. Docket No. ER83-170-000, New England Power Co.
CAP-27. Docket Nos. ER81-188-000 and ER82-155-000, Central Maine Power Co.
CAP-28. Docket Nos. ER82-493-000 and ER82-494-000, Pennsylvania Power & Light Co.
CAP-29. Docket No. EL80-25-003, Commonwealth Edison Co.
CAP-30. Docket No. EL82-21-000, Sacramento Municipal Utility District v. Pacific Gas & Electric Co., Southern California Edison Co., and San Diego Gas & Electric Co.
CAP-31. Docket No. ER79-128-007, Arizona Public Service Co.

Consent Miscellaneous

CAM-1. Docket No. RM79-52-000, Interim procedures for shortages of electric energy and capacity under Section 206 of the Public Utility Regulations Policies Act of 1978
CAM-2. Docket No. RM81-10-000, Application for license for minor water power projects and major water power projects 5 megawatts or less
CAM-3. Docket No. RM83-58-000, Rules of practice and procedure: citation form

CAM-4. Docket No. RM79-76-098, (Montana—1), high-cost gas produced from tight formations
CAM-5. Docket No. RM79-76-141, (Texas—24), high-cost gas produced from tight formations
CAM-6. Docket No. RM79-76-147, (Texas—3 addition II amendment), high-cost gas produced from tight formations
CAM-7. Docket No. RM79-76-149, (Texas—3 addition IV), high-cost gas produced from tight formations
CAM-8. Docket No. GP80-9-001, Equitable Gas Co.
CAM-9. Docket Nos. GP82-57-00 and SA8236-000, Intrastate Energy Corp. of Tennessee
CAM-10. Docket No. SA82-10-001, Western Continental Operating Co.
CAM-11. Docket No. RM81-64-000, USA Petroleum Corp.
CAM-12. Docket No. RM81-50-000, Navajo Refining Co.
CAM-13. Docket No. RM81-17-000, Definition of agricultural use in § 282.202(a) of the Commission's Incremental Pricing Regulations

Consent Gas Agenda

CAG-1. Docket Nos. TA82-2-22-003 (PGA82-2, IPR82-2 and RD&D82-2) and RP82-64-001 and 002, Consolidated Gas Supply Corp.
CAG-2. Docket No. RP83-40-001, Inter-City Minnesota Pipelines Ltd., Inc.
CAG-3. Docket No. RP81-81-009, United Gas Pipe Line Co.
CAG-4. Docket Nos. RP80-107-013 and 014, Natural Gas Pipeline Co. of America
CAG-5. Docket Nos. RP80-91-002 and RP80-93-002., Arkansas Louisiana Gas Co. (a Division of Arkla, Inc.)
CAG-6. Docket Nos. RP78-68-011, 012, 013 and 014, United Gas Pipe Line Co.
CAG-7. Docket No. RP78-94-000, Texas Gas Transmission Corp.
CAG-8. Docket No. RP82-74-005. Texas Gas Transmission Corp.
CAG-9. Docket No. TA81-1-21-000 and TA81-2-21-001, Columbia Gas Transmission Corp.
CAG-10. Docket Nos. RP83-52-000 and RP83-53-000, United Gas Pipe Line Co.
CAG-11. Docket No. RP83-11-001, Transcontinental Gas Pipe Line Corp.
CAG-12. Docket No. RP83-54-000, South Georgia Natural Gas Co.
CAG-13. Docket No. RP83-58-000, Southern Natural Gas Co.
CAG-14. Docket No. TA 83-2-7-000 (PGA83-2), Southern Natural Gas Co.
CAG-15. Docket No. TA83-2-31-000 (PGA83-2), Arkansas Louisiana Gas Co.
CAG-16. Docket No. TA83-2-33-000 (PGA83-2), El Paso Natural Gas Co.
CAG-17. Docket No. TA83-2-37-000 (PGA83-2), Northwest Pipeline Corp.
CAG-18. Docket No. TA83-2-42-000 (PGA83-2), Transwestern Pipeline Co.
CAG-19. Docket No. TA83-2-36-000 (PGA83-2), Mountain Fuel Supply Co.
CAG-20. Docket Nos. TA83-2-13-000 (PGA83-2) and RP83-59-000, Gas Gathering Corp.
CAG-21. Docket No. TA83-2-41-000 (PGA83-2), Southwest Gas Corp.
CAG-22. Docket No. TA83-1-59-000 (PGA83-1), Northern Natural Gas Co.
CAG-23. Docket No. TA83-2-34-000 (PGA83-2), Florida Gas Transmission Co.
CAG-24. Docket No. TA82-1-29-000, Transcontinental Gas Pipe Line Corp.
CAG-25. Docket No. RP83-27-000, Michigan Wisconsin Pipe Line Co.
CAG-26. Docket Nos. TA81-1-33-007, TA82-2-33-001, et al., and RP82-33-004, RP83-6-000 and RP83-13-000, El Paso Natural Gas Co.
CAG-27. Docket No. RP83-24-001, Alabama-Tennessee Natural Gas Co.
CAG-28. Docket Nos. RP83-11-002 and RP83-30-000, Transcontinental Gas Pipe Line Corp.
CAG-29. Docket Nos. IS80-14-000 and IS81-115-000, et al., American Petrofina Pipe Line Co., et al.
CAG-30. Docket Nos. IS81-49-000, et al., Hydrocarbon Transportation, Inc.
CAG-31. Docket Nos. ST79-16-000, et al., Delhi Gas Corp.
CAG-32. Docket No. ST83-76-000, Producer's Gas Co.
CAG-33. Docket No. CI83-97-001, Mesa Petroleum Co.; Docket No. CI83-101-000, Gulf Oil Corp.
CAG-34. Docket No. CS74-149-002, Partners Oil Co. (Daniel Oil Co.); Docket No. CS83-21-001, L. Texas Petroleum, Inc.; Docket No. CI81-199-002, Shell Offshore, Inc.
CAG-35. Docket No. CI75-633-000, et al., MRT Exploration Co., et al.
CAG-36. Docket Nos. CI78-385-001 and CI78-386-001, Texas Gas Exploration Corp.
CAG-37. Docket No. RI83-4-000, Exxon Corp.
CAG-38. Docket No. RI78-11-000, J. G. Stone, et al.
CAG-39. Docket No. CP83-86-001, Panhandle Eastern Pipe Line Co.
CAG-40. Docket No. CP83-174-000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-41. Docket No. CP83-130-000, Arkansas Louisiana Gas Co., a Division of Arkla, Inc.
CAG-42. Docket No. CP83-132-000, Texas Eastern Transmission Corp.
CAG-43. Docket No. CP83-56-000, National Fuel Gas Supply Corp.
CAG-44. Docket No. CP82-505-000, Natural Gas Pipe Line Co. of America.
CAG-45. Docket No. CP82-521-000, El Paso Natural Gas Co.
CAG-46. Docket No. CP78-124-007, Northern Border Pipeline Co.; Docket No. CP80-22-004, Northern Natural Gas Co.; Docket No. CP80-43-002, Great Lakes Gas Transmission Co.
CAG-47. Docket No. CP82-368-000, United Gas Pipe Line Co.
CAG-48. Docket Nos. CP83-139-000 and 001, The Inland Gas Co., Inc.
CAG-49. Docket Nos. RP83-6-000, RP82-33-000, RP82-94-000, RP82-108-000, RP82-86-000, RP81-141-000, RP72-116-000 and RP83-13-000, El Paso Natural Gas Co.
CAG-50. Docket Nos. RP81-49-009 and RP82-62-001, Natural Gas Pipeline Co. of America

I. Licensed Project Matters

P-1. (a) Docket No. EL78-24-013 and 014 (phase I), Municipal Electric Utilities Association of the State of New York v. Power Authority of the State of New York; Docket No. EL78-37-000 (phase I), Village of Ilion, New York v. Power Authority of the State New York; (b) Docket No. EL80-19-000, Massachusetts Municipal Wholesale Electric Co. v. Power Authority of the State of New York; Docket No. EL80-24-000, Connecticut Municipal Electric Energy Cooperative v. Power Authority of State of New York
P-2. Project No. 344-001, Southern California Edison Co.
P-3. Project No. 2774-000, Modesto and Turlock Irrigation Districts and City and County of San Francisco; Project No. 5642-000, Tuolumne County, California
P-4. Project Nos. 5248-000 and 5250-000, West Slope Power Co.
P-5. Project No. 3590-002, Northern Resources, Inc.
P-6. Project No. 4435-002, Damnation Peak Power Co.
P-7. Project No. 5756-002, Resource Investments
P-8. Project No. 4297-002, the Metropolitan District of Hartford, Connecticut
P-9. Project No. 2943-000, City of Columbus, Ohio
P-10. Docket No. HB08-74-2-000, Virginia Electric & Power Co.—Dan River, Inc.

II. Electric Rate Matters

ER-1. Docket No. ER78-417-000, Kentucky Utilities Co.
ER-2. Omitted
ER-3. Docket No. ER83-114-000, Western Massachusetts Electric Co.
ER-4. Docket No. ER83-89-001, Northern State Power co. (Minnesota)
ER-5. Docket No. QF82-231-000, Kenvil Energy Corp.
ER-6. Docket No. EF80-2011-001, United States Department of Energy—Bonneville Power Administration (System Rates)
ER-7. Docket No. ER81-400-000, Pennsylvania Power & Light Co.

Miscellaneous Agenda

M-1. Docket No. RM83-13-000, Annual charges for use of Government dams and other structures under part I of the Federal Power Act
M-2. Docket No. RM83-10-000, Annual Charges policy group
M-3. Docket No. RM80-39-000, Regulations governing applications for license for major unconstructed projects and major modified projects; applications for license for transmission line only; and applications for amendment to license
M-4. Docket No. RM81-15-000, Revisions to certain regulations governing applications for preliminary permit and license for water power projects

Gas Agenda

I. Pipeline Rate Matters

RP-1. Docket No. RP79-23-003, Distrigas of Massachusetts Corp., Docket No. RP79-24-002, Distrigas Corp.
RP-2. Docket No. RP78-78-001, (Abandoned projects), Natural Gas Pipeline Co. of America
RP-3. Docket Nos. ST82-381-000 and CP82-444-000, J. W. Gathering Co.

RP-4. (a) Docket No. CP78-124-000, Northern Border Pipeline Co.; (b) Docket No. CP78-123-000, et al., Alaskan Northwest Natural Gas Transportation Co.

II. Producer Rates

CI-1. Reserved.

III. Pipeline Certificate Matters

CP-1. Omitted.
CP-2. Docket No. CP76-500-991, Cities Service Gas Co.
CP-3. Docket Nos. CP83-134-000 and 001, Houston Pipe Line Co.; Docket Nos. CP83-135-000 and 001, Oasis Pipe Line Co.
CP-4. Docket No. CP83-124-000, United Gas Pipe Line Co.
CP-5. Docket No. CP82-531-000, Consolidated Gas Supply Corp., Docket No. CP82-550-000, Transcontinental Gas Pipe Line Corp.
CP-6. Docket No. CP83-179-000, Northwest Central Pipeline Corp.
CP-7. Docket No. CP83-113-000, Colorado Interstate Gas Co. and Michigan Wisconsin Pipeline Co.
CP-8. Docket No. CP82-12-000, New England States Pipeline Co.

Lois D. Cashell,

Acting Secretary.

[S-426-83 Filed 3-24-83; 2:53 pm]

BILLING CODE 6717-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 23, 1983.

TIME AND DATE: 10:30 a.m., Thursday, March 24, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following case continued from March 23, 1983:

1. MSHA v. Roy Glenn, Docket No. WEST 80-158-M. (Issues include whether the judge properly concluded that a corporate agent had "knowingly authorized", within the meaning of section 110(c) of the Mine Act, a violation of a mandatory safety standard.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-424-83 Filed 3-24-83; 11:29 am]

BILLING CODE 6735-01-M

5

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Thursday, March 31, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

Status: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda:

1. Proposed amendments to (1) Regulation Z (Truth in Lending) that would delete "arrangers of credit" from the definition of creditors, exempt certain student loans, and reinstate provisions regarding liability for use of faulty calculation tools; and (2) Regulation E (Electronic Fund Transfers) to conform with Regulation Z. (Proposed earlier for public comment; Docket Nos. R-0450 and R-0449.)

2. Any items carried forward from a previously announced meeting.

Pease Note.—There is no discussion agenda scheduled for this open meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[S-418-83 Filed 3-23-83; 4:43 pm]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 10:15 a.m., Thursday, March 31, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report regarding consumer complaints management.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: March 23, 1983.

James McAfee,

Associate Secretary of the Board.

[S-419-83 Filed 3-23-83; 4:47 pm]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR, 11808, Monday, March 21, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, March 25, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed follow-up report to Congress on the International Banking Act of 1978. (This item was originally announced for a meeting on February 28, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: March 24, 1983.

James McAfee,

Associate Secretary of the Board.

[S-423-83 Filed 3-24-83; 11:28 am]

BILLING CODE 6210-01-M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 38 7849, February 24, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., March 24, 1983.

CHANGES IN THE MEETING: This meeting has been canceled.

Dated: March 24, 1983.

[S-430-83 Filed 3-24-83; 10:29 am]

BILLING CODE 7600-01-M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., April 21, 1983.

PLACE: Suite 316, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: March 24, 1983.

[S–421–83 Filed 3–24–83; 10:29 am]

BILLING CODE 7600–01–M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., April 6, 1983.

PLACE: Suite 316, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: March 24, 1983.

[S. 422–83 Filed 3–24–83; 10:29 am]

BILLING CODE 7600–01–M

11

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Fish and Wildlife Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

ACTION: Meeting notice.

STATUS: Open.

TIME AND DATE: 1 p.m. (tentative), March 31, 1983.

PLACE: Northwest Power Planning Council, 700 S.W. Taylor, Suite 200, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Briefing on water budget implementation
- Staff briefing on Condit Dam
- Briefing on results of recent Pacific Fishery Management Council meetings:

(a) 1983 Salmon Fishery Management Plan

(b) Proposed U.S./Canada Pacific Fishery Management Agreement

- Other

FOR FURTHER INFORMATION CONTACT: Mr. Curt Marshall (503) 222–5161.

Edward Sheets,

Executive Director.

[S–425–83 Filed 3–24–83; 11:29 am]

BILLING CODE 0000–00–M

federal register

Monday
March 28, 1983

Part II

Environmental Protection Agency

Procurement Under Assistance Agreements

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 33

[OA-FRL 2210-3]

Procurement Under Assistance Agreements

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document makes the Environmental Protection Agency's Part 33, "Procurement Under Assistance Agreements," a final rule. Part 33 establishes the rules for all procurement undertaken by recipients of EPA assistance agreements. In accordance with OMB Circular A-102, Attachment O, and OMB Circular A-110, Attachment O this rule is designed to rely heavily on recipients' procurement systems. Part 33 applies to all Catalog of Federal Domestic Assistance Programs in the 66.000 series.

DATE: This rule is effective for assistance agreements which EPA awards on and after March 28, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, (202) 382-5296.

SUPPLEMENTARY INFORMATION: On September 16, 1981, EPA published in the **Federal Register** (46 FR 45963) a Notice of Availability which made a draft of Part 33 available for public comment.

On March 2, 1982, EPA published a proposed Part 33 in the **Federal Register** (47 FR 8960) and on May 12, 1982, EPA published in the **Federal Register** (47 FR 20474) an interim-final Part 33. The May 12, 1982, interim-final rule became effective only for EPA's construction grants program.

On July 8, 1982, EPA reopened the comment period on Section 33.240 "Small, minority, women's and labor surplus area businesses" (47 FR 29668). The comment period on this section was extended 30 days because it significantly changes EPA's existing minority business and women's business policies.

We made numerous editorial changes throughout the interim-final rule in order to make this final rule easier to read and understand.

Implementation

Because we published an interim-final and final Part 33 rule, we have added this section to explain when the interim-final is effective and when the final rule is effective.

1. If EPA awarded a wastewater treatment construction grant under Title II of the Clean Water Act before May 12, 1982, the recipient has the following options:

(a) The recipient may follow the procurement requirements in effect when EPA awarded its construction grant, or

(b) The recipient may follow the procurement requirements in the May 12 interim-final rule, provided the recipient completed and submitted EPA Form 5700-48 to the award official before the effective date of this final rule, or

(c) The recipient may follow the procurement requirements in the final rule.

2. If EPA awarded a construction grant between May 12, 1982, and the effective date of this rule, the recipient has the following options.

(a) The recipient may follow the procurement requirements in the May 12 interim-final rule, provided the recipient completed and submitted EPA Form 5700-48 to the award offical before the effective date of this final rule.

(b) If the recipient did not submit EPA Form 5700-48 before the effective date of this rule, the recipient must follow the procurement requirements in this final rule. The recipient must complete the appropriate part of EPA Form 5700-48 and submit the form to the award official as required in § 33.110.

3. Comprehensive Environmental Response, Compensation, and Liability Act of 1980, "Superfund" awards made after March 2, 1982, included the proposed Part 33 rule (47 FR 8960) as a special condition in each cooperative agreement.

Superfund awards made after May 12, 1982, included the interim-final Part 33 (47 FR 20474) as a special condition in each cooperative agreement.

Superfund awards made after the effective date of this final rule are subject to the final rule.

4. If EPA awarded any other assistance agreement (other than construction grants and Superfund awards) before the effective date of this rule, the recipient has the following options:

(a) The recipient may follow the procurement requirements in effect when EPA awarded the assistance agreement, or

(b) The recipient may follow the procurement requirements in the final rule. The recipient must complete the appropriate part of EPA Form 5700-48 and submit the form to the award official as required in § 33.110.

EPA Form 5700-48 "Procurement System Certification"

This form implements the self-certification process. Subpart A "Procurement System Evaluation" explains how EPA and the recipient will use the form. For the reader's convenience, we have included a copy of the form after Appendix A.

Description of Major Issues

Quality Assurance

On June 14, 1979, EPA established quality assurance requirements for all EPA extramural projects involving environmental measurements. The objective of the quality assurance (QA) program is to ensure that all environmentally related measurements which are required or funded by EPA are scientifically valid, defensible, and of known precision and accuracy. Under the program, contractors must submit QA plans to the recipient if contract activities will include environmentally related measurements. The reference to EPA's QA program is being added to § 33.1030, clause 13, "Responsibility of the Contractor," paragraph (a), in order to make contractors aware of the policy.

The QA requirements are specified in guideline documents available from: Sid Verner, Environmental Protection Agency, Office of Research and Development (RD-680), 401 M Street, S.W., Washington, D.C. 20460, (202) 382-5787.

Major Comments Received

We received over 125 comments on the March 2, 1982, proposed rule. The preamble to the May 12, 1982, interim-final rule addressed some of these comments in detail. Since EPA's position on the issues discussed in that preamble is unchanged, we have not repeated those discussions here. The following discussion addresses the other areas of the regulation which received the greatest number of comments:

Section 33.005 Definitions.

We reserved the definitions of minority business enterprise (MBE) and women's business enterprise (WBE) in the May 12, 1982, interim-final regulation. We are adding those definitions now.

We received several comments on the definition of MBE in the September 9, 1981, draft regulation which was made available to the public for comment by notice in the **Federal Register** on September 16, 1981 (46 FR 45963). That definition used the Small Business Administration's (SBA) definition of minority group members, which

excluded persons from the Indian subcontinent from the definition of "Asian American." Because a number of people from the Indian subcontinent have participated in EPA's MBE program for construction grants, we are now revising the September 9, 1981, definition to include businesses owned and controlled by individuals from the Indian subcontinent. We understand that the SBA is now considering a petition to include persons from the Indian subcontinent in its definition of "Asian Americans."

We also received comments on the need for a definition of the terms "Intergovernmental Agreement" and "Supplies;" therefore, we added definitions for these terms.

Section 33.110 Applicant and recipient certification.

We received questions on the regulatory authority retained by the EPA award official when the recipient certifies its procurement system. To clarify the authority the award official retains, we have added paragraph (e) to § 33.110 "Applicant and recipient certification."

Section 33.211 Recipient reporting requirements.

This is a new section which gives the reporting requirements recipients must follow even if the recipient certifies its procurement system. Paragraph (a) through (d) of this section lists the information the Department of Labor (DoL) requires for each construction subagreement award which exceeds or is expected to exceed $10,000. The DoL requires this information to implement the Davis-Bacon Act, Copeland Regulations, Work Hours and Safety Standards Act, and the equal employment opportunity requirements in Executive Order 11246, Executive Order 11375 and DOL regulations in 41 CFR Part 60. Paragraph (e) of this section requires that recipients submit to the award official a copy of the tabulation of bids or offerors and the name of the bidder or offeror for each subagreement the recipient awards. EPA needs this information to efficiently implement EPA's debarment and suspension regulation (40 CFR Part 32 "Debarment and Suspension Under EPA Assistance Programs").

Section 33.230 Competition.

We received several comments on the requirements in § 33.230(c) for the use of a prequalified list. We allow recipients to use prequalified lists of persons, firms or products because they play an important part in many State and local procurement systems. However, because a prequalified list could unduly restrict competition, we require that recipients provide adequate public notice that they are maintaining a prequalified list, that the recipient update the list at least every six months and that the recipient review and act on each request for prequalification made more than 30 days before the closing date for receipt of proposals or bid opening. We believe that these requirements will allow potential contractors sufficient access to the list and will minimize the noncompetitive nature of such lists.

We also received several comments on the prohibition in § 33.230(b)(4) against the use of local or in-State bidders' or proposers' preference. We included this prohibition because a preference for local or in-State bidders unduly restricts competition. If the local or in-State bidder is more familiar with the local conditions, or can more readily mobilize its resources and can, therefore, provide the work more economically or efficiently, a preference is not necessary because its bid or proposal should reflect this familiarity or mobility.

Section 33.240 Small, minority, women's and labor surplus area businesses.

We are continuing to review EPA's minority and women's business enterprise (MBE/WBE) provisions in § 33.240. We reserved § 33.240(b) for any additional MBE/WBE requirements which the Agency may impose.

On December 17, 1982, President Reagan issued a Statement on Minority Business Enterprise Development which encourages Federal assistance agencies to achieve reasonable minority business participation in contracts under assistance agreements. The President noted that minority business procurement by recipients could amount to $6 to $7 billion through FY 1985. The President also indicated that an Executive Order on Minority Business Enterprise will be forthcoming, and that the Interagency Council for Minority Business Enterprise will establish uniform guidelines to implement the Order. EPA will then review and revise, if necessary, its MBE/WBE provisions in § 33.240 to assure that they are consistent with the requirements of Executive Order.

In this rule, § 33.240 contains only those provisions allowed by Attachment O, Paragraph 9. Therefore, the MBE policy (43 FR 60220, December 26, 1978) and the WBE policy (45 FR 51490, August 1, 1980) are no longer mandatory for recipients of construction grants who are subject to the interim-final or final Part 33 rule. However, any EPA recipient may adopt these policies, in whole or in part, by including provisions in their solicitations and subagreements. In any event, recipients and contractors must comply with the affirmative step requirements in § 33.240 and any other requirements of the State or the recipient.

We also received a substantial number of comments on the absence of percentage goals in § 33.240 for MBE and WBE participation in EPA-funded work. We no longer require recipients to include goals in their specifications, nor will the EPA regions set goals for MBE or WBE participation. In the past, goals served as a tool to determine whether the affirmative steps required by OMB Circular A-102, Attachment O were adequately carried out by the assistance recipient and its contractors. In keeping with EPA's policy to transfer procurement responsibilities to recipients, the Agency believes that recipients and States should decide how to implement the required affirmative steps. Therefore, recipients may use their own goals, State goals, or other standards.

Several commenters noted that the regulation was not clear on whether the affirmative steps must be undertaken for each group of businesses—small, minority-owned and women-owned. Recipients must take the affirmative steps in § 33.240 for each group. For example, solicitation of MBE's alone will not satisfy the requirements of § 33.240; the recipient must also attempt to contract with small and women's businesses.

We also received several comments that § 33.240(a)(6) differs from OMB Circular A-102, Attachment O, section 9.a.(6). The commenters pointed out that Attachment O requires that the first tier contractor take the affirmative steps (1) through (5) only if the contractor plans to award subagreements. Therefore, we have revised § 33.240(a)(6) to make it consistent with OMB Circular A-102, Attachment O.

Several commenters suggested that we add a definition of "labor surplus area." The Secretary of Labor is responsible for defining labor surplus area. This definition is contained in 20 CFR Part 654, "Special Responsibilities of the Employment Service System."

With respect to EPA's construction grants program, we received comments concerning the use of MBE/WBE's in facilities planning and design work. As a result of the 1981 Amendments to the Clean Water Act, EPA cannot directly involve itself in the facilities planning and design activities preceding the

award of a construction grant. However, it is EPA's policy to encourage potential grant recipients to adopt procurement procedures that, at a minimum, include the affirmative steps in § 33.240 for all activities of their construction program.

Section 33.255 Specifications.

One commenter asked if the justification for the use of a restrictive specification had to be included in the specification itself. That is not the case. The justification for the use of a restrictive specification must be documented and included in the recipient's files.

We also receive a recommendation that we limit use of "brand name or equal" specifications to procurements for the acquisition of equipment and services, and prohibit the use of a brand name or equal specification for the procurement of pipe and similar materials.

We believe it is inappropriate to adopt this recommendation for two reasons. First, neither Attachment O nor the Clean Water Act, as amended, provide for any restriction of this nature. Second, there may be instances in the procurement of materials when the recipient's procuring official must resort to use of a "brand name or equal" specification.

Although we prefer the use of design or performance based specifications, we agree that use of a "brand name or equal" specification is generally not advisable in procurements for the acquisition of materials. Instead, the recipient should determine whether a national or industry standard has been developed. If developed, such a standard may provide both the recipient and prospective contractors a more accurate description of the material to be purchased than would a "brand name or equal" specification.

A "brand name or equal" specification can be used only when the recipient determines that it is impractical or uneconomical for it to make a clear and accurate description of its technical requirements in the specifications.

Section 33.280 Payments to consultants.

We received several comments that this section does not make it clear that consultants may receive compensation in excess of the GS–18 rate, but that the Federal government will limit its participation in a payment to a consultant to the maximum daily rate for a GS–18. We have, therefore, revised the wording in this section to make this clear.

We also revised paragraph (b) to clarify that the GS–18 rate limitation does not apply to firms.

Section 33.295 Subagreements awarded by a contractor.

We received questions about the applicability of Part 33 to subagreements awarded by a contractor. We revised § 33.295 to clarify and explain which procurement requirements apply and that they apply only to the tier immediately below the contractor (i.e. subagreements awarded by the contractor.) However, this section does not apply to a first tier subagreement awarded by the recipient to a supplier. That is, the section does not apply to a supplier's procurement of materials to produce equipment, materials, and catalog, off-the-shelf, or manufactured items.

We also added three requirements we inadvertently omitted from the proposed and interim-final rules. These three requirements existed in EPA's previous procurement regulations, in 40 CFR 30.340–2 (a) through (d), and (g) and are proposed in 40 CFR 30.301(a) (1) through (4) and (7)), the profit requirements in § 33.235, and the specification requirements in § 33.255.

Section 33.520 Negotiation and award of subagreement.

We reworded paragraph (a) to clarify that the recipient must state in the Request For Proposal (RFP) that he can make the award based on initial offers alone. If the recipient does not make such a statement in the RFP, the recipient must conduct meaningful negotiations with all of the best qualified offerors with acceptable proposals and permit revisions to obtain best and final offers.

Section 33.525 Optional procedure for negotiation and award of subagreements for architectural and engineering services.

Several commenters suggested that we revise this section to delete the word "optional" in the title. We included the word optional to make it clear that the procedures in this section are not mandatory. This is in keeping with OMB Circular A–102, Attachment O, paragraph 11.c.(5), which clearly states that these procedures are optional.

We also revised this section to explain the optional procedure in more detail.

Section 33.715 Use of the same architect or engineer during construction.

We received comments concerning § 33.715(a), which lists the circumstances under which a recipient can use the same architect or engineer that performed any or all of the facilities planning or design services for the architectural or engineering services during Step 3 construction of the project. The concern was whether § 33.715(a)(4) applies to § 33.715(a) (1), (2) and (3) or to § 33.715(a)(3) only. Section 33.715(a)(4) applies to § 33.715(a)(3) only. Therefore, we restructured § 33.715(a) (3) and (4) to combine their requirements into a new § 33.715(a)(3).

Also, we changed this section to allow recipient's of either a Step 1 or a Step 2 grant to use the same architect or engineer (A/E) during construction of the project without further advertising or negotiations, if the recipient selected the A/E in accordance with the EPA procurement regulation in effect when EPA awarded the Step 1 or Step 2 grant.

Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

Several commenters stated that the requirements for nonprofit organizations exceed the requirements in OMB Circular A–110, Attachment O. While not all of the requirements in Part 33 are required by OMB Circular A–110, Attachment O, we believe that they are necessary to ensure efficient and effective program management. OMB reviewed and approved all of these requirements during the regulatory review process.

Sections 33.1015 through 33.1021 Subagreement clauses.

In the proposed and interim-final rules we included separate sections in Subpart F explaining the four labor standards provisions required by the Department of Labor (DoL). In these versions of the rule, we briefly explained each of these requirements and referred the recipient to the appropriate DoL regulation. The recipient then had to read the DoL regulation and develop a clause which met the requirement. However, since several of the DoL regulations require the use of a standard clause and because EPA has a form (EPA Form 5720–4 "Labor Standards Provisions For Federally Assisted Construction Contracts") which contains the appropriate DoL clauses and which has been approved by DoL, we added § 33.1016 "Labor standards provisions" which requires recipients to use EPA Form 5720–4. We believe this will reduce the burden on recipients and help implement the DoL requirements.

Section 33.1030 Clause 3 Changes.

Comments we received during an EPA internal review of this Part suggested that we change this clause to eliminate the reference to oral change orders in paragraph (a)(2). The change was suggested to improve the management of change orders and to reduce program costs. We agree that oral change orders may lead to mismanagement and add to program costs, and have, therefore, changed this clause. The subject of change order management was addressed in EPA's Office of Inspector General's September 21, 1982, report on change orders "Report on Audit and Administration of Change Orders Under EPA's Construction Grant Program." This report was undertaken as part of the President's Council on Integrity and Efficiency's study on change orders under contruction programs.

Section 33.1030 Clause 8 Price Reduction for Defective Cost or Pricing Data.

We received comments that paragraph 10(b) of 40 CFR Part 35, Subpart E, Appendix C-1 should be added to the end of this clause in order to allow a disagreement over a reduction in price to fall under the remedies clause of the subagreement. We agree and have added a paragraph (b) to this clause.

Another commenter pointed out that by raising the effective level of this clause from $100,000 to $500,000, we were excluding most of the subagreements for services on Step 3 construction grant projects. We have, therefore, changed the effective level of this clause back to the $100,000 level.

Section 33.1030 Clause 9 Audit; Access to Records.

We added a new paragraph (f) and revised paragraph (g) to clarify when the right of access clause applies.

Meeting With Interest Groups

On May 6, 1982, at the request of the Water and Wastewater Equipment Manufacturers Association (WWEMA), EPA held a public meeting to discuss several issues. Present at the meeting were representatives from groups with special interest in procurement under EPA assistance agreements, including the National Institute of Governmental Purchasing (NIGP), the Association of General Contractors (AGC), the American Consulting Engineers Council (ACEC), and the American Public Works Association (APWA). A tape of this meeting is on file with EPA's Docket Section in Docket No. G-81-4. In addition, the positions of the various groups are contained in written comments also in the Docket. The sections discussed at this meeting were:

Section 33.255 Specifications.

The issue was whether to delete the requirement of § 33.255 that if a "brand name or equal" description is used, the salient characteristics of the named brand must also be stated. The requirement to include the named brand's salient characteristics in the specification is a requirement in Attachment O to OMB Circular A-102, and is specifically called for in House of Representatives Report No. 97-270, 97th Congress, 1st Session, October 12, 1982, (page 12), which accompanied the bill that became Public Law 97-117. Therefore, EPA cannot change the requirement to include the named brand's salient characteristics.

Section 33.1015 Subagreement provisions clause.

The issue was whether to mandate progress payments for undelivered, specifically manufactured items of equipment having long production times. One commenter believed that requiring recipients to make progress payments for such items would reduce equipment costs because manufacturers include in their equipment price the interest on money they borrow to produce the equipment. While progress payments could reduce the cost of some equipment, Treasury Circular 1075 does not require progress payments; therefore, EPA will not require them. This does not preclude recipients from making progress payments for such items and we encourage those who find it in their interest to allow progress payments.

Section 33.1030(b) Clause 4 Differing Site Conditions.

The issue was whether EPA should require a clause to cover situations where the actual characteristics of the influent to a wastewater treatment works differs significantly from those on which the original design was based. Participants in the meeting decided that a joint WWEMA/ACEC/AGC task group would provide EPA a suggested draft clause covering this issue. EPA considered the task group's suggestion and decided that, although the clause addresses an important issue, it is not an appropriate procurement under assistance agreement requirement.

Section 33.005(b) Definition of architectural or engineering services.

The issues were whether the definition of "architectural or engineering (A/E) services" should include manufacturers and contractors and be revised to state that providers of A/E services need not be licensed by the State. The definition in § 33.005(b) is based on the definition for A/E services in the American Bar Association's "Model Procurement Code for State and Local Governments" and section 2 of the American Society of Civil Engineers' *Manual 45.* Because EPA's definition is based on the definitions in these widely accepted reference documents, we do not believe the definition should be changed.

Section 33.525 Optional procedure for negotiation and award of a subagreement for architectural and engineering services.

The issue was whether to eliminate the words "architectural and engineering." This section implements an option to the competitive negotiation process under OMB Circular A-102, Attachment O, which expressly limited the option to the procurement of A/E services. Therefore, EPA believes that a change to this section is not warranted.

Regulation Development Process

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order or whether it may follow other development procedures. We determined that this regulation is not "major" because it will not have a substantial impact on the economy. Consequently, the regulation is not subject to the impact analysis requirements of Executive Order 12291.

Information collection requirements contained in § 33.110 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2000-0453.

The information provisions in § 33.211 "Recipient reporting requirements" and the requirement in § 33.420(f), § 33.510(b) and § 33.1016 to use EPA Form 5720-4 have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2030-0004.

This regulation was submitted to OMB for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 33

Advertising, Conflict of interest, Environmental protection, Grants programs—Environmental protection.

Dated: March 11, 1983.

John W. Hernandez, Jr.,

Acting Administrator.

Accordingly, Title 40 Chapter I is amended by revising Part 33 to read as follows:

PART 33—PROCUREMENT UNDER ASSISTANCE AGREEMENTS

33.001 Applicability and scope of this part.
33.005 Definitions.

Subpart A—Procurement System Evaluation

33.105 Applicability and scope of this subpart.
33.110 Applicant and recipient certification.
33.115 Procurement system review.

Subpart B—Procurement Requirements

33.205 Applicability and scope of this subpart.
33.210 Recipient responsibility.
33.211 Recipient reporting requirements.
33.220 Limitation on subagreement award.
33.225 Violations.
33.230 Competition.
33.235 Profit.
33.240 Small, minority, women's, and labor surplus area businesses.
33.245 Privity of subagreement.
33.250 Documentation.
33.255 Specifications.
33.260 Intergovernmental agreements.
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33.520 Negotiation and award of subagreement.
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33.605 Noncompetitive negotiation procurement method.

Subpart C—Requirements for Recipients of Assistance Agreements for Construction of Treatment Works

Sec.
33.705 Applicability and scope of this subpart.
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33.715 Use of the same architect or engineer during construction.

Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

33.805 Applicability and scope of this subpart.
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33.815 Nonapplicable procurement provisions.
33.820 Additional procurement requirements.

Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

33.905 Applicability and scope of this subpart.
33.910 Preference for formal advertising.
33.915 Award official approval.

Subpart F—Subagreement Provisions

33.1005 Applicability and scope of this subpart.
33.1010 Requirements for subagreement clauses.
33.1015 Subagreement provisions clause.
33.1016 Labor standards provisions.
33.1019 Patents, data and copyrights clause.
33.1020 Violating facilities clause.
33.1021 Energy efficiency clause.
33.1030 Model subagreement clauses.

Subpart G—Protests

33.1105 Applicability and scope of this subpart.
33.1110 Recipient protest procedures.
33.1115 Protest appeal.
33.1120 Limitations on protest appeals.
33.1125 Filing requirements.
33.1130 Review of protest appeals.
33.1140 Deferral of procurement action.
33.1145 Award official's review.

Appendix A—Procedural Requirements for Recipients Who Do Not Certify Their Procurement Systems, or for Recipients Who Have Their Procurement Certifications Revoked by EPA.

Authority: 7 U.S.C. 135 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 241, 242b, 243, 246, 300j-1, 300j-2, 300j-3, 1857 et seq., 6901 et seq.; and 42 U.S.C. 9601 et seq.

§ 33.001 Applicability and scope of this Part.

(a) This part applies to all assistance agreements awarded on or after the effective date of this part. For assistance agreements awarded before the effective date, this part will apply only to those procurement actions initiated by the recipient on or after the date the recipient complies with the self-certification requirements in § 33.110 of this part.

(b) This part:

(1) Describes EPA's procurement system evaluation process.

(2) Identifies the minimum requirements for the procurement of supplies, services, and construction under EPA assistance agreements.

(3) Identifies an additional specification requirement for procurement under assistance agreements for the construction of treatment works awarded under 40 CFR Part 35, Subparts E and I.

(4) Identifies the procurements standards that institutions of higher education and other nonprofit organizations must follow.

(5) Identifies the provisions that recipients of EPA assistance agreements must include in their subagreements.

(6) Describes the procedures that EPA will use to handle protest appeals concerning the award of a subagreement by the recipient of an EPA assistance agreement.

(c) This Part does not apply to work beyond the scope of the project for which an assistance agreement is awarded (i.e., ineligible work).

(d) This part does not apply to expenses for services for which the recipient will receive an allowance or a potential recipient will receive an advance of an allowance under 40 CFR Part 35, Subpart I.

(e) This part supplements the requirements in:

(1) 40 CFR Part 30 "General Regulation for Assistance Programs," and

(2) 40 CFR Part 32, "Debarments and Suspensions under EPA Assistance Programs."

(f) The following types of recipients must comply with the specified subparts in this part:

(1) Recipients of assistance agreements for the construction of treatment works awarded under 40 CFR Part 35, Subparts E and I, must follow the requirements in Subparts A, B, C, F and G.

(2) Recipients of remedial action cooperative agreements under the Comprehensive Environmental Response, Compensation, Liability Act of 1980 (Superfund 42 U.S.C. 6901 et seq.) must follow the requirements in Subparts A, B, E, F and G.

(3) State and local government recipients for other than construction grants and CERCLA remedial action cooperative agreements must follow the requirements in Subparts A, B, F and G.

(4) Institutions of higher education, hospitals, and other nonprofit organizations must follow the requirements in Subparts A, B, D and G.

(g) In the construction of treatment works program under the Clean Water Act (33 U.S.C. 1251 et. seq.), it is EPA's policy to delegate determinations on individual projects to State agencies to the maximum extent possible (see 40 CFR Part 35, Subpart F). This Part uses the term "award official." To the extend that the award official for a treatment works assistance agreement delegates responsibility for determining compliance with the requirements of this Part (except for § 33.115 "Procurement system review," §33.211 "Recipient reporting requirements" and Subpart G "Protests") to a State agency under a delegation agreement (40 CFR 35.1130), the term "award official" may be read "State agency."

(h) This Part applies to a grant awarded under 40 CFR Part 35 Subpart E only if the recipient elects to follow the requirements in this Part. If the recipient of a Subpart E grant does not elect to follow the requirements in this Part, it is subject to the procurement requirements in 40 CFR Subpart E.

§ 33.005 Definitions.

(a) Words and terms not defined below shall have the meaning given to them in 40 CFR Part 30 and 40 CFR Part 35.

(b) As used in this part, the following words and terms mean:

Architectural or engineering (A/E) services. Consultation, investigations; reports, or services for design-type projects within the scope of the practice of architecture or professional engineering as defined by the laws of the State or territory in which the recipient is located.

Construction. Erection, building, alteration, remodeling, improvement, or extension of buildings, structures or other property. Construction also includes remedial actions in response to a release, or a threat of a release, of a hazardous substance into the environment as determined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Contractor. Any party to whom a recipient awards a subagreement.

Cost analysis. The review and evaluation of each element of subagreement cost to determine reasonableness, allocability and allowability.

Intergovernmental Agreement. Any written agreement between units of government under which one public agency performs duties for or in concert with another public agency using EPA assistance. This includes substate and interagency agreements.

Minority Business Enterprise. A minority business enterprise is a business which is: (1) Certified as socially and economically disadvantaged by the Small Business Administration, (2) certified as a minority business enterprise by a State or Federal agency, or (3) an independent business concern which is at least 51 percent owned and controlled by minority group member(s). A minority group member is an individual who is a citizen of the United States and one of the following:

(i) Black American;

(ii) Hispanic American (with origins from Puerto Rico, Mexico, Cuba, South or Central America);

(iii) Native American (American Indian, Eskimo, Aleut, native Hawaiian), or

(iv) Asian-Pacific American (with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan or the Indian subcontinent).

Price analysis. The process of evaluating a prospective price without regard to the contractor's separate cost elements and proposed profit. Price analysis determines the reasonableness of the proposed subagreement price based on adequate price competition, previous experience with similar work, established catalog or market price, law, or regulation.

Profit. The net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on applicable Federal cost principles, it may vary from many firms' definition of profit, and may correspond to those firms' definition of "fee.")

Services. A contractor's labor, time, or efforts which do not involve the delivery of a specific end item, other than documents, (e.g., reports, design drawing, specifications). This term does not include employment agreements or collective bargaining agreements.

Small business. A business as defined in Section 3 of the Small Business Act, as amended (15 U.S.C. 632).

Subagreement. A written agreement between an EPA recipient and another party (other than another public agency) and any lower tier agreement for services, supplies, or construction necessary to complete the project. Subagreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

Supplies. All property, including equipment, materials, printing, insurances, and leases of real property, but excluding land or a permanent interest in land.

Women's Business Enterprise. A women's business enterprise is a business which is certified as such by a State or Federal agency, or which meets the following definition: A women's business enterprise is an independent business concern which is at least 51 percent owned by a woman or women who also control and operate it. Determination of whether a business is at least 51 percent owned by a woman or women shall be made without regard to community property laws. For example, an otherwise qualified WBE which is 51 percent owned by a married woman in a community property state will not be disqualified because her husband has a 50 percent interest in her share. Similarly, a business which is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become a qualified WBE by virtue of his wife's 50 percent interest in his share of the business.

Subpart A—Procurement System Evaluation

§ 33.105 Applicability and scope of this subpart.

(a) This subpart applies to all recipients of EPA assistance agreements.

(b) For procurements involving EPA funds, recipients shall use their own procurement policies and procedures if those policies and procedures reflect applicable Federal, State, and local laws and regulations, and at least meet the requirements set forth in this part.

(c) This subpart describes when EPA will review the recipient's procurement practices.

§ 33.110 Applicant and recipient certification.

(a) It is the applicant's and recipient's responsibility to evaluate its own procurement system and to determine whether its system meets the applicable requirements in this part (see § 33.001).

(b) After evaluating its procurement system, the applicant or recipient will complete the "Procurement System Certification" (EPA Form 5700–48). The applicant or recipient will either certify that:

(1) Its system will meet the intent of all the requirements in this part before any procurement action with EPA assistance is undertaken, or

(2) Its current system does not meet the intent of the requirements of this part and, therefore, the applicant will follow the requirements of 40 CFR Part 33 and allow EPA preaward review of proposed procurement actions that will

use EPA funds. The additional requirements for EPA review and approval are contained in Appendix A to this part.

(c) The applicant must submit the signed certification form with the assistance application to the award official.

(d) The certification will be valid for two years or for the length of the project period specified in the assistance agreement, whichever is greater, unless the recipient substantially revises its procurement system or the award official determines that the recipient is not following the intent of the requirements in this part (see § 33.115(b)). If the recipient substantially revises its procurement system, the recipient must re-evaluate its system and submit a revised EPA Form 5700-48.

(e) Even when a recipient certifies its procurement system, the EPA award official retains the authority stated in:

(1) Section 33.210(h) "Recipient's procurement responsibilities," which requires the recipient to receive the award official's prior written approval if the recipient wants to use an innovative procurement method,

(2) Section 33.211 "Recipient reporting requirements," which requires the award official to notify the Department of Labor of certain construction subagreement awards, and obtain all bid or offer tabulations,

(3) Section 33.605(d) "Noncompetitive negotiation," to authorize a noncompetitive award,

(4) Section 33.820(b) "Additional procurement requirements," which requires the award official's prior approval for a sole source award over $10,000 by an institute of higher education or other nonprofit organization,

(5) Section 33.915 "Award official approval," which requires the award official to approve the recipient's use of a procurement method other than formal advertising for a Superfund remedial action award, and

(6) Subpart G "Protests."

§ 33.115 Procurement system review.

(a) EPA will not substitute its judgment for that of the recipient unless the matter is primarily a Federal concern.

(b) Even if a recipient has a certified procurement system, EPA reserves the right to review a recipient's procurement system or procurement action under an assistance agreement:

(1) To determine if the recipient is following the procurement requirements in this part; or

(2) When there is sufficient reason to believe that the recipient's system may be unacceptable based on:

(i) Information concerning the review or certification of the recipient's procurement system or actions by other Federal agencies or Congress;

(ii) Information from the recipient's cognizant audit agency;

(iii) Information from State agencies and organizations independent of the recipient's procurement activity;

(iv) Recipient responses to the procurement system certification form;

(v) Previous EPA experience with the recipient; or

(vi) Information from contractors or prospective contractors.

(c) If the award official determines that the recipient is not following the procurement requirements it certified it would follow, the award official shall revoke the recipient's certification and:

(1) Require that the recipient follow the procurement requirements in this part, including Appendix A, for future procurement actions and, if appropriate,

(2) Apply the sanctions in 40 CFR Part 30.

(d) The recipient may recertify its procurement system if it shows the award official that it has corrected the procurement deficiencies noted by the award official, and the award official accepts the recertification.

Subpart B—Procurement Requirements

§ 33.205 Applicability and scope of this subpart.

This subpart contains:

(a) The recipient's and EPA's responsibilities, and

(b) The minimum procurement standards for each recipient's procurement system.

§ 33.210 Recipient responsibility.

(a) The recipient is responsible for the settlement and satisfactory completion in accordance with sound business judgment and good administrative practice of all contractual and administrative issues arising out of subagreements entered into under the assistance agreement. This includes issuance of invitations for bids or requests for proposals, selection of contractors, award of subagreements, settlement of protests, claims, disputes and other related procurement matters.

(b) The recipient shall maintain a subagreement administration system to assure that contractors perform in accordance with the terms, conditions and specifications of their subagreements.

(c) The recipient shall review its proposed procurement actions to avoid purchasing unnecessary or duplicative items.

(d) The recipient shall consider consolidating its procurement or dividing it into parts to obtain a more economical purchase.

(e) Where appropriate, the recipient shall make an analysis of lease versus purchase alternatives in its procurement actions.

(f) A recipient of a remedial action cooperative agreement awarded under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 must obtain the EPA award official's approval to use a procurement method other than the formal advertising method (see Subpart E).

(g) A recipient may request technical and legal assistance from the award official for the administration and enforcement of any subagreement awarded under this Part. However, such assistance does not relieve the recipient of its responsibilities under this Part.

(h) A recipient may use innovative procurement methods or procedures only if it receives the award officials' prior written approval.

§ 33.211 Recipient reporting requirements.

Recipients shall notify the award official, in writing, of each construction subagreement which has or is expected to have an aggregate value over $10,000 within a 12-month period. The recipient shall notify the award official within ten (10) calendar days after the award of each construction subagreement. The notice shall include:

(a) Name, address, telephone number and employee identification number of the construction contractor,

(b) Amount of the award,

(c) Estimated starting and completion dates,

(d) Project number, name and site location of the project, and

(e) Copy of the tabulations of bids or offerors and the name of each bidder or offeror.

§ 33.220 Limitation of subagreement award.

(a) The recipient shall award subagreements only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. A responsible contractor is one that has:

(1) Financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project, or a demonstrated ability to obtain these;

(2) Resources to meet the completion schedule contained in the subagreement;

(3) A satisfactory performance record for completion of subagreements;

(4) Accounting and auditing procedures adequate to control property, funds and assets, as required in this Part and 40 CFR Part 30; and

(5) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law and other statutory requirements under 40 CFR Part 30.

(b) The recipient shall not make awards to contractors who have been suspended, debarred, or voluntarily excluded under 40 CFR Part 32 nor shall it permit any portion of the work required by the subagreement to be performed at any facility listed on the EPA List of Violating Facilities (see 40 CFR Part 15).

§ 33.225 Violations.

The recipient shall refer violations of law to the local, State or Federal authority with jurisdiction over the matter (see § 30.610).

§ 33.230 Competition.

(a) The recipient shall conduct all procurement transactions in a manner that provides maximum open and free competition.

(b) Procurement practices shall not unduly restrict or eliminate competition. Examples of practices considered to be unduly restrictive include:

(1) Noncompetitive practices between firms;

(2) Organizational conflicts of interest;

(3) Unnecessary experience and bonding requirements;

(4) State or local laws, ordinances, regulations or procedures which give local or in-State bidders or proposers preference over other bidders or proposers in evaluating bids or proposals; or

(5) Placing unreasonable requirements on firms in order for them to qualify to do business.

(c) The recipient may use a prequalification list(s) of persons, firms or products if it:

(1) Updates its prequalified list(s) at least every six months;

(2) Reviews and acts on each request for prequalification made more than 30 days before the closing date for receipt of proposals or bid opening; and

(3) Gives adequate public notice of its prequalification procedure in accordance with the public notice procedures in § 33.410 or § 33.510.

(d) A recipient may not use a prequalified list(s) of persons or firms if the procedure unnecessarily restricts competition. However, this restriction does not apply to § 33.525 "Optional selection procedure for negotiation and award of subagreements for architectural and engineering services."

§ 33.235 Profit.

(a) Recipients must assure that only fair and reasonable profits are paid to contractors awarded subagreements under EPA assistance agreements.

(b) The recipient shall negotiate profit as a separate element of price for each subagreement in which there is no price competition, or where price is based on cost analysis.

(c) Where the recipient receives two or more bids, profit included in a formally advertised, competitively bid, fixed price subagreement shall be considered reasonable.

(d) Off-the-shelf or catalog supplies are exempt from this section.

§ 33.240 Small, minority, women's, and labor surplus area businesses.

(a) It is EPA policy to award a fair share of subagreements to small, minority, and women's businesses. The recipient must take affirmative steps to assure that small, minority, and women's businesses are used when possible as sources of supplies, construction and services. Affirmative steps shall include the following:

(1) Including qualified small, minority, and women's businesses on solicitation lists;

(2) Assuring that small, minority, and women's businesses are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses;

(4) Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses;

(5) Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, as appropriate; and

(6) If the contractor awards subagreements, requiring the contractor to take the affirmative steps in paragraphs (a)(1) through (a)(5) of this section.

(b) [Reserved].

(c) EPA encourages recipients to procure supplies and services from labor surplus area firms.

§ 33.245 Privity of subagreement.

Neither EPA nor the United States shall be a party to any subagreement nor to any solicitation or request for proposals.

§ 33.250 Documentation.

(a) Procurement records and files for procurements in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Written justification for selection of the procurement method;

(3) Written justification for use of any specification which does not provide for maximum free and open competition;

(4) Written justification for the type of subagreement;

(5) Basis for award cost or price, including a copy of the cost or price analysis made in accordance with § 33.290 and documentation of negotiations; and

(6) Written justification for rejecting bids.

(b) Recipients must state the reasons for rejecting any or all bids and the justification for procurements on a noncompetitively negotiated basis and make them available for public inspection.

§ 33.255 Specifications.

(a) Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition, unless the features are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment or to promote innovative technologies. The description shall include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

(b) The recipient shall avoid the use of detailed product specifications if at all possible.

(c) When in the judgment of the recipient it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a "brand name or equal" description as a means to define the performance or other salient requirements of a procurement. The recipient need not establish the existence of any source other than the named brand. Recipients must clearly state in the specification the salient requirements of the named brand which must be met by offerors. (An additional specification requirement for recipients of assistance for the construction of treatment works under

40 CFR Part 35, Subparts E and I is contained in § 33.710.)

§ 33.260 Intergovernmental agreements.

(a) To foster greater economy and efficiency, EPA encourages recipients to enter into State and local intergovernmental agreements for common procurement or use of goods and services.

(b) Although intergovermental agreements are not subject to the requirements in this part, all procurements under intergovernmental agreements are subject to the requirements in this part except for procurements that are:

(1) Incidental to the purpose of the assistance agreement, and

(2) Made through a central public procurement unit.

§ 33.265 Bonding and insurance.

(a) These requirements apply only to recipients and contractors with subagreements for construction.

(1) For construction subagreements of $100,000 or less, the recipient shall follow its own requirements relating to bid guarantees, performance bonds and payment bonds.

(2) For those subagreements more than $100,000, the award official may accept the recipient's bonding policy and requirements provided the award official makes a determination that the Federal Government's interest is adequately protected. If the award official does not make that determination, the minimum bonding requirements for subagreements more than $100,000 are:

(i) A "bid guarantee" from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as the EPA recipient may require within the time specified.

(ii) A "performance bond" for 100 percent of the subagreement price. A "performance bond" is one that the contractor executes in connection with a subagreement to secure fulfillment of all its obligations under such subagreement.

(iii) A "payment bond" for 100 percent of the subagreement price. A "payment bond" is one that the contractor executes in connection with a subagreement to assure payment as required by law, to all persons supplying labor and material in the execution of the work provided for in the subagreement.

(3) Where bonds are required in the situations described above, bidders and contractors shall obtain them from companies holding certificaties of authority as acceptable sureties (31 CFR Part 223).

(b) Recipients and contractors must follow the flood hazard area requirements of the Flood Disaster Protection Act of 1973 contained in 40 CFR Part 30.

§ 33.270 Code of conduct.

(a) Recipients shall maintain a written code or standards of conduct which shall govern the performance of its officers, employees, or agents engaged in the award and administration of subagreements supported by EPA funds. No employee, officer or agent of the recipient shall participate in the selection, award or administration of a subagreement supported by EPA funds if a conflict of interest, real or apparent, would be involved.

(b) Such a conflict would arise when:

(1) Any employee, officer or agent of the recipient, any member of their immediate families, or their partners have a financial or other interest in the firm selected for award, or

(2) An organization which may receive or has been awarded a subagreement employs, or is about to employ, any person under paragraph (b)(1) of this section.

(c) The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or other parties to subagreements.

(d) Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

(e) To the extent permitted by State or local law or regulations, the recipient's code of conduct shall provide for penalties, sanctions or other disciplinary actions for violations of the code by the recipient's officers, employees or agents or by contractors or their agents.

§ 33.275 Federal cost principles.

The following cost principles apply to assistance agreements and subagreements:

(a) State and local governments must comply with OMB Circular A-87 to determine allowable costs.

(b) Educational institutions must comply with OMB Circular A-21 to determine allowable costs and with OMB Circular A-88 for indirect cost rates.

(c) Nonprofit institutions must comply with OMB Circular A-122 to determine allowable costs.

(d) All other recipients, contractors and subcontractors must comply with the cost principles contained in the Federal Procurement Regulations (41 CFR 1-15.2 and, if appropriate, 1-15.4) to determine allowable costs.

§ 33.280 Payment to consultants.

(a) For all EPA assistance agreements, EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors to the maximum daily rate for a GS-18. (Recipients may, however, pay contractors and subcontractors more than this amount.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices.

(b) Subagreements with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

§ 33.285 Prohibited types of subagreements.

The cost-plus-percentage-of-cost (e.g., a multiplier which includes profit) and the percentage-of-construction-cost types of subagreements shall not be used.

§33.290 Cost and price considerations.

(a) The recipient shall conduct a cost analysis of all negotiated change orders and all negotiated subagreements estimated to exceed $10,000.

(b) The recipient shall conduct a price analysis of all formally advertised procurements estimated to exceed $10,000 if there are fewer than three bidders.

(c) For negotiated procurement, contractors and subcontractors shall submit cost or pricing data in support of their proposals to the recipient.

§33.295 Subagreements awarded by a contractor.

A contractor must comply with the following provisions in its award of subagreements. (This section does not apply to a supplier's procurement of materials to produce equipment, materials and catalog, off-the-shelf, or manufactured items.)

(a) 40 CFR Part 32 (Debarment and Suspension Under EPA Assistance Programs);

(b) The limitations on subagreement award in § 33.220 (a)(1) through (a)(5);

(c) The profit requirements in § 33.235;

(d) The requirements for small, minority, women's and labor surplus area businesses in § 33.240;

(e) The specification requirements of § 33.255;

(f) The requirements of Subpart C of this Part, if appropriate;

(g) The Federal cost principles in § 33.275;

(h) The prohibited types of subagreements in § 33.285;

(i) The cost and price considerations in § 33.290, and

(j) The applicable subagreement provisions in Subpart F of this part.

Small Purchases

§ 33.305 Small purchase procurement.

If the aggregate amount involved in any one procurement transaction does not exceed $10,000, including estimated handling and freight charges, overhead and profit, the recipient may use small purchase procedures.

§ 33.310 Small purchase procedures.

Small purchase procedures are relatively simple procurement methods that are sound and appropriate for a procurement of services, supplies or other property costing in the aggregate not more than $10,000.

§ 33.315 Requirements for competition.

(a) Recipients shall not divide a procurement into smaller parts to avoid the dollar limitation for competitive procurement.

(b) Recipients shall obtain price or rate quotations from an adequate number of qualified sources.

Formal Advertising

§ 33.405 Formal advertising procurement method.

(a) The requirements in §§ 33.405 through 33.430 apply to all formally advertised subagreements in excess of $10,000. Formal advertising means the public solicitation of sealed bids and the award of a subagreement based on a fixed price (lump sum, unit price, or a combination of the two) to the lowest, responsive, responsible bidder.

(b) Formal advertising requires at a minimum:

(1) A complete, adequate and realistic specification or purchase description of what is required;

(2) Two or more responsible bidders which are willing and able to compete effectively for the recipient's business;

(3) A procurement that lends itself to the award of a fixed-price subagreement; and

(4) That the selection of the successful bidder be made principally on the basis of price.

§ 33.410 Public notice and solicitation of bids.

The recipient shall give adequate public notice of the solicitation, inviting bids and stating when and how the bidding documents may be obtained or examined.

§ 33.415 Time for preparing bids.

The recipient must allow adequate time between the date the public notice is first published and the date by which bids must be submitted.

§ 33.420 Adequate bidding documents.

Recipient's bidding documents shall include:

(a) A complete statement of work to be performed including, where appropriate, design drawings and specifications and the required performance schedule;

(b) The terms and conditions of the subagreement to be awarded, including payment, delivery schedules, point of delivery and acceptance criteria;

(c) A clear explanation of the recipient's method of bidding and the method of evaluating bid prices, and its basis and method for awarding the subagreement;

(d) Any other responsibility requirements or evaluation criteria which the recipient will use in evaluating bidders;

(e) The prevailing wage determination, made under the Davis-Bacon Act, if applicable; and

(f) The deadline and place to submit bids and a copy of § 33.295, Subparts F and G and, if appropriate, EPA Form 5720–4 "Labor Standard Provisions for Federally Assisted Contracts."

§ 33.425 Public opening of bids.

The recipient shall publicly open bids at the place, date and time announced in the bidding documents.

§ 33.430 Award to the lowest, responsive, responsible bidder.

(a) The recipient shall evaluate all bids in accordance with the methods and criteria in the bidding documents.

(b) The recipient shall award a fixed-price subagreement to the lowest, responsive, responsible bidder. Where specified in the bidding documents, recipients shall consider factors such as discounts, transportation costs and life cycle costs to determine the low bid. Payments discounts may be used to determine the low bid only when prior experience of the recipient indicates that it generally accepts such discounts.

(c) The recipient may reject all bids only when it has sound, documented business reasons which are in the best interest of the program for which EPA assistance is awarded (see § 33.250 "Documentation").

Competitive Negotiation

§ 33.505 Competitive negotiation procurement method.

(a) The requirements in §§ 33.505 through 33.525 apply to all competitively negotiated subagreements in excess of $10,000.

(b) Recipients may use competitive negotiation only if conditions are not appropriate for the use of the formal advertising method of procurement (see § 33.405).

§ 33.510 Public notice.

(a) The recipient must give adequate public notice for competitively negotiated procurements.

(b) The notice of a request for proposals must state how to obtain associated documents, including a copy of § 33.295, Subparts F and G, the basis for subagreement award, and, if appropriate, EPA Form 5720–4 "Labor Standard Provisions for Federally Assisted Contracts."

(c) Requests for proposals must be written, contain enough information to enable a prospective offeror to prepare a proposal, contain all evaluation criteria and the relative importance attached to each, and clearly state the deadline and place to submit proposals.

§ 33.515 Evaluation of proposals.

(a) Recipients must uniformly and objectively evaluate all proposals submitted in response to the request for proposals.

(b) Recipients must base their determinations of qualified offerors and acceptable proposals solely on the evaluation criteria stated in the request for proposals.

§ 33.520 Negotiation and award of subagreement.

(a) Unless the request for proposals states that award may be based on initial offers alone, the recipient must conduct meaningful negotiations with the best qualified offerors with acceptable proposals within the competitive range, and permit revisions to obtain best and final offers. The best qualified offerors must have equal opportunities to negotiate or revise their proposals. During negotiations, the recipient must not disclose the indentity of competing offerors or any information from competing proposals.

(b) The recipient must award the subagreement to the responsible offeror whose proposal is determined in writing to be the most advantageous to the recipient, taking into consideration price

and other evaluation criteria set forth in the request for proposal.

(c) The recipient must promptly notify unsuccessful offerors that their proposals were rejected.

(d) The recipient must document its procurement file to indicate how proposals were evaluated, what factors were used to determine the best qualified offerors within the competitive range, and what factors were used to determine the subagreement award.

§ 33.525 Optional selection procedure for negotiation and award of subagreements for architectural and engineering services.

(a) The recipient may evaluate and select an architect or engineer using the procedures in this section in place of the procedures in § 33.520, "Negotiation and award of subagreements."

(b) The recipient may use either a prequalified list developed in accordance with § 33.230(c) or responses to requests for statement of qualifications to determine the most technically qualified architects or engineers.

(c) After selecting and ranking the most qualified architects or engineers, the recipient will request technical proposals from those architects or engineers and inform them of the evaluation criteria the recipient will use to rank the proposals.

(d) The recipient shall then select and determine, in writing, the best technical proposal.

(e) After selecting the best proposal, the recipient shall attempt to negotiate fair and reasonable compensation with that offeror.

(f) If the recipient and the offeror of the best proposal cannot agree on the amount of compensation, the recipient shall formally terminate negotiations with that offeror. The recipient shall then negotiate with the offeror with the next best proposal. This process will continue until the recipient reaches agreement on compensation with an offeror with an acceptable proposal. Once the recipient terminates negotiations with an offeror, the recipient cannot go back and renegotiate with that offeror.

Noncompetitive Negotiation

§ 33.605 Noncompetitive negotiation procurement method.

Recipients may use noncompetitive negotiation to award a subagreement if the other three procurement methods are inappropriate because:

(a) The item is available only from a single source;

(b) A public exigency or emergency exists and the urgency for the requirement will not permit a delay incident to competitive procurement;

(c) After solicitation from a number of sources, competition is inadequate; or

(d) The EPA award official authorizes noncompetitive negotiation, subject to the limitation in § 33.715(a)(2).

Subpart C—Requirements for Recipients of Assistance Agreements for the Construction of Treatment Works

§ 33.705 Applicability and scope of this subpart.

Recipients of assistance agreements awarded under 40 CFR Part 35, Subparts E and I must comply with the following requirements.

§ 33.710 Buy American.

Section 215 of the Clean Water Act requires that contractors give preference for the use of domestic material in the construction of EPA funded treatment works.

(a) Contractors must use domestic construction material in preference to nondomestic material if it is priced no more than 6 percent higher than the bid or offered price of the nondomestic material, including all costs of delivery to the construction site and any applicable duty, whether or not assessed. The recipient will normally base the computations on prices and costs in effect on the date of opening of bids or proposals.

(b) The award official may waive the Buy American provision based upon factors he considers relevant, including:

(1) Such use is not in the public interest;

(2) The cost is unreasonable;

(3) The Agency's available resources are not sufficient to implement the provision, subject to the Deputy Administrator's concurrence;

(4) The articles, materials or supplies of the class or kind to be used or the articles, materials or supplies from which they are manufactured are not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities or satisfactory quality for the particular project; or

(5) Application of this provision is contrary to multilateral government procurement agreements, subject to the Deputy Administrator's concurrence.

(c) All bidding documents, subagreements, and, if appropriate, requests for proposals must contain the "Buy American" provision in § 33.1030.

§ 33.715 Use of the same architect or engineer during construction.

(a) If the recipient is satisified with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for the project and wishes to retain that firm or individual during construction of the project, it may do so without further public notice and evalution of qualifications, provided:

(1) The recipient received a facilities planning (Step 1) or design grant (Step 2), and selected the architect or engineer in accordance with EPA's procurement regulations in effect when EPA awarded the grant; or

(2) The award official approves noncompetitive procurement under § 33.605(d) for reasons other than simply using the same individual or firm that provided facilities planning or design services for the project; or

(3) The recipient attests that:

(i) The initial request for proposals clearly stated the possibility that the firm or individual selected could be awarded a subagreement for services during construction; and

(ii) The firm or individual was selected for facilities planning or design services in accordance with procedures in:

(A) Section 33.230 "Competition,"and

(B) Section 33.250(a)(1), (a)(2) & (a)(3), and (b) "Documentation," and one of the following:

(C) Section 33.305 through 33.315 "Small Purchases," or

(D) Section 33.405 through 33.430 "Formal Advertising;"or

(E) Section 33.505 through 33.525 "Competitive Negotiation."

(iii) No employee, officer or agent of the recipient, any member of their immediate families, or their partners have financial or other interest in the firm selected for award; and

(iv) None of the recipient's officers, employees or agents solicited or accepted gratuities, favors or anything of monetary value from contractors or other parties to subagreements.

(b) However, if the recipient uses the procedures in paragraph (a) to retain an architect or engineer, any Step 3 subagreements between the architect or engineer and the recipient must meet all of the other procurement provisions in this part.

Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

§ 33.805 Applicability and scope of this subpart.

Recipients who are subject to the provisions of OMB Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit

Organizations" are not subject to all of the requirements in this part.

§ 33.810 Nonapplicable subagreement clauses.

The following clauses in Subpart F of this part do not apply to institutions of higher education and other nonprofit organizations:

(a) Energy efficiency (§ 33.1024);

(b) Changes (§ 33.1030,3);

(c) Differing site conditions (§ 33.1030,4); and

(d) Price reduction for defective cost or pricing data (§ 33.1030,8).

§ 33.815 Nonapplicable procurement provisions.

The following procurement provisions do not apply to institutions of higher education and other nonprofit organizations:

(a) Subparts C and E;

(b) Sections 33.405 through 33.430 "Formal advertising;"

(c) Sections 33.505 through 33.525 "Competitive negotiation;"

(d) Section 33.605 "Noncompetitive negotiation" (see § 33.820(b));

(e) The requirement in § 33.270(a) "Code of conduct" to have a written code of conduct;

(f) The provisions of § 33.240 "Small, minority, women's, and labor surplus area businesses" which:

(1) Encourage the award of a fair share of contracts to women's and labor surplus area businesses;

(2) Require the specific affirmative action steps in § 33.240(a)(1) through (a)(6); however, nonprofit organizations are required to make positive efforts to use small businesses and minority owned businesses as sources of supplies and services;

(g) Subpart G "Protests."

§ 33.820 Additional procurement requirements.

(a) Recipients must exclude contractors that develop or draft specifications, requirements, statements of work, invitation for bids, or requests for proposals from competing for awards resulting from the prior effort.

(b) For all proposed sole source subagreements and where only one bid or proposal is received, the recipient must request the award official's prior approval to award the subagreement if the aggregate expenditure is expected to exceed $10,000.

Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

§ 33.905 Applicability and scope of this subpart.

(a) The requirements in §§ 33.910 through 33.915 apply only to remedial actions which EPA funds as part of a cooperative agreement under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).

(b) Studies, investigations, or engineering activities which precede a remedial action activity are not subject to the requirements in §§ 33.910 through 33.915, but are subject to the requirements in Subparts A, B, F and G of this part.

§ 33.910 Preference for formal advertising.

If a recipient wants to use a procurement method other than formal advertising, it must receive the EPA award official's concurrence with the determination.

§ 33.915 Award official approval.

The award official shall approve the recipient's use of a procurement method other than formal advertising only after the recipient has completed planning remedial activities and selected a cost-effective alternative.

Subpart F—Subagreement Provisions

§ 33.1005 Applicability and scope of this subpart.

(a) This subpart applies to all EPA recipients and describes the minimum content of each subagreement (contract and subcontract).

(b) Nothing in this subpart prohibits a recipient from requiring more assurances, guarantees, or indemnity or other contractural requirements from any party to a subagreement.

§ 33.1010 Requirements for subagreement clauses.

Recipients shall include clauses that meet the requirements of §§ 33.1015 through 33.1021, and the appropriate clauses in § 33.1030, in each procurement subagreement.

§ 33.1015 Subagreement provisions clause.

Each subagreement must include provisions defining a sound and complete agreement, including the:

(a) Nature, scope, and extent of work to be performed;

(b) Timeframe for performance;

(c) Total cost of the subagreement; and

(d) Payment provisions.

§ 33.1016 Labor standards provisions.

Recipients shall include a copy of EPA Form 5720-4 "Labor Standards Provisions for Federally Assisted Construction Contracts" in each subagreement for construction (as defined by the Secretary of Labor). The form contains the Davis-Bacon Act requirements (40 U.S.C. 276a—276a-7); the Copeland Regulations (29 CFR Part 3); the Contract Work Hours and Safety Standards Act—Overtime Compensation (940 U.S.C. 327-333) and the nondiscrimination provisions in Executive Order 11246, as amended.

§ 33.1019 Patents data and copyrights clause.

Except for construction grant subagreements, all subagreements shall include notice of EPA requirements and regulations pertaining to reporting and patent rights under any subagreement involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the conduct of work under a subagreement. This notice shall also include EPA requirements and regulations pertaining to copyrights and rights in data contained in 40 CFR Part 30.

§ 33.1020 Violating facilities clause.

Subagreements in excess of $100,000 shall contain a provision which requires contractor compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and EPA regulations (40 CFR Part 15) which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

§ 33.1021 Energy efficiency clause.

Subagreements shall comply with mandatory standards and policies on energy efficiency contained in the State's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

§ 33.1030 Model subagreement clauses.

Recipients must include, when appropriate, the following clauses or their equivalent in each subagreement. Recipients may substitute other terms for "recipient and" "contractor" in their subagreements.

1. Supersession

The recipient and the contractor agree that this and other appropriate clauses in 40 CFR 33.1030 apply to that work eligible for EPA assistance to be performed under this subagreement and that these clause supersede any conflicting provisions of this subagreement.

2. Privity of Subagreement

This subagreement is expected to be funded in part with funds from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is, or will be, a party to this subagreement or any lower tier subagreement. This subagreement is subject to regulations contained in 40 CFR Part 33 in effect on the date of the assistance award for this project.

3. Changes

(a) The following clause applies only to subagreements for construction. (1) The recipient may at any time, without notice to any surety, by written order designated or indicated to be a change order, make any change in the work within the general scope of the subagreement, including but not limited to changes:

(i) In the specifications (including drawings and designs);

(ii) In the time, method or manner of performance of the work;

(iii) In the recipient-furnished facilities, equipment, materials, services or site, or

(iv) Directing acceleration in the performance of the work.

(2) A change order shall also be any other written order (including direction, instruction, interpretation or determination) from the recipient which causes any change, provided the contractor gives the recipient written notice stating the date, circumstances and source of the order and that the contractor regards the order as a change order.

(3) Except as provided in this clause, no order, statement or conduct of the recipient shall be treated as a change under this clause or entitle the contractor to an equitable adjustment.

(4) If any change under this clause causes an increase or decrease in the contractor's cost or the time required to perform any part of the work under this contract, whether or not changed by any order, the recipient shall make an equitable adjustment and modify the subagreement in writing. Except for claims based on defective specifications, no claim for any change under paragraph (a)(2) above shall be allowed for any costs incurred more than 20 days before the contractor gives written notice as required in paragraph (a)(2). In the case of defective specifications for which the recipient is responsible, the equitable adjustment shall include any increased cost the contractor reasonably incurred in attempting to comply with those defective specifications.

(5) If the contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 days after receipt of a written change order under paragraph (a)(1) or the furnishing of a written notice under paragraph (a)(2), submit a written statement to the recipient setting forth the general nature and monetary extent of such claim. The recipient may extend the 30-day period. The contractor may include the statement of claim in the notice under paragraph (2) of this change clause.

(6) No claim by the contractor for an equitable adjustment shall be allowed if made after final payment under this subagreement.

(b) The following clause applies only to subagreements for services. (1) The recipient may at any time, by written order make changes within the general scope of this subagreement in the services or work to be performed. If such changes cause an increase or decrease in the contractor's cost or time required to perform any services under this subagreement, whether or not changed by any order, the recipient shall make an equitable adjustment and modify this subagreement in writing. The contractor must assert any claim for adjustment under this clause in writing within 30 days from the date it receives the recipient's notification of change, unless the recipient grants additional time before the date of final payment.

(2) No services for which the contractor will charge an additional compensation shall be furnished without the written authorization of the recipient.

(c) The following clause applies only to subagreements for supplies. (1) The recipient may at any time, by written order and without notice to the sureties, change the general scope of this subagreement in any one or more of the following:

(i) Drawings, designs or specifications where the supplies to be furnished are specifically manufactured for the recipient;

(ii) Method of shipment or packing; and

(iii) Place of delivery.

(2) If any change causes an increase or decrease in the cost or the time required to perform any part of the work under this subagreement, whether or not changed by any such order, the recipient shall make an equitable adjustment in the subagreement agreement price or delivery schedule, or both, and modify the subagreement in writing. The contractor must assert any claim for adjustment under this clause within 30 days from the date the contractor receives the recipient's notification of change. If the recipient decides that the facts justify such action, the recipient may receive and act upon any such claim asserted at any time before final payment under this subagreement. Where the cost of property made obsolete or excess as a result of a change is included in the contractor's claim for adjustment, the recipient has the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse the contractor from proceeding with the subagreement as changed.

4. Differing Site Conditions

The following clause applies only to construction subagreements. (a) The contractor shall promptly, and before such conditions are disturbed, notify the recipient in writing of:

(1) Subsurface or latent physical conditions at the site differing materially from those indicated in this subagreement, or

(2) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this subagreement.

(b) The recipient shall promptly investigate the conditions. If it finds that conditions materially differ and will cause an increase or decrease in the contractor's cost or the time required to perform any part of the work under this subagreement, whether or not changed as a result of such conditions, the recipient shall make an equitable adjustment and modify the subagreement in writing.

(c) No claim of the contractor under this clause shall be allowed unless the contractor has given the notice required in paragraph (a) of this clause. However, the recipient may extend the time prescribed in paragraph (a).

(d) No claim by the contractor for an equitable adjustment shall be allowed if asserted after final payment under this subagreement.

5. Suspension of Work

The following clause applies only to construction subagreements. (a) The recipient may order the contractor in writing to suspend, delay or interrupt all or any part of the work for such period of time as the recipient may determine to be appropriate for the convenience of the recipient.

(b) If the performance of all or any part of the work is suspended, delayed or interrupted for an unreasonable period of time by an act of the recipient in administration of this subagreement, or by the recipient's failure to act within the time specified in this subagreement (or if no time is specified, within a reasonable time), the recipient shall make an adjustment for any increase in the cost of performance of this subagreement (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and modify the contract writing. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent (1) that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the contractor, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this subagreement.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the contractor notified the recipient in writing of the act, or failure to act, involved (this requirement does not apply to a claim resulting from a suspension order), and (2) unless the amount claimed is asserted in writing as soon as practicable after the termination of such suspension, delay or interruption, but not later than the date of final payment under the subagreement.

6. Termination

(a) This subagreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this subagreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

(b) This subagreement may be terminated in whole or in part in writing by the recipient for its convenience, provided that the contractor is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

(c) If termination for default is effected by the recipient, an equitable adjustment in the price provided for in this subagreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the contractor at the time of termination may be adjusted to cover any additional costs to the recipient because of the contractor's default. If termination for default is effected by the contractor, or if termination for convenience is effected by the recipient, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments which had become firm prior to the termination.

(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the contractor shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the recipient all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the contractor in performing this subagreement, whether completed or in process.

(e) Upon termination under paragraphs (a) or (b) above, the recipient may take over the work and may award another party a subagreement to complete the work under this subagreement.

(f) If, after termination for failure of the contractor to fulfill contractual obligations, it is determined that the contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the recipient. In such event, adjustment of the subagreement price shall be made as provided in paragraph (c) of this clause.

7. Remedies

Unless otherwise provided in this subagreement, all claims, counter-claims, disputes and other matters in question between the recipient and the contractor arising out of, or relating to, this subagreement or the breach of it will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the recipient is located.

8. Price Reduction for Defective Cost or Pricing Data

[Note.—The following clause applies to (1) any subagreement negotiated between the recipient and its contractor in excess of $100,000; (2) negotiated subagreement amendments or change orders in excess of $100,000 affecting the price of formally advertised, competitively awarded, fixed price subagreement, or (3) any lower tier subagreement or purchase order in excess of $100,000 under a subagreement other than a formally advertised, competitively awarded, fixed price subagreement. This clause does not apply to subagreements awarded on the basis of effective price competition.]

(a) The contractor and subcontractor, where appropriate, assure that the cost and pricing data submitted for evaluation with respect to negotiation of prices for negotiated subagreements, lower tier subagreements and change orders is based on current, accurate and complete data supported by their books and records. If the recipient or EPA determines that any price (including profit) negotiated in connection with this subagreement, lower tier subagreement or amendment thereunder was increased by any sigificant sums because the data provided was incomplete, inaccurate or not current at the time of submission, then such price or cost or profit shall be reduced accordingly and the recipient shall modify the subagreement in writing to reflect such action.

(b) Failure to agree on a reduction shall be subject to the remedies clause of this subagreement.

[*Note.—Since the subagreement is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with lower tier subagreements, the contractor may wish to include a clause in each lower tier subagreement requiring the lower tier subcontractor to appropriately indemnify the contractor. It is also expected that any lower tier subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data submitted by lower tier contractors.*]

9. Audit; Access to Records

(a) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on EPA funded work under this subagreement in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR Part 30 in effect on the date of execution of this subagreement. The contractor shall also maintain the financial information and data used in the preparation or support of the cost submission required under 40 CFR 33.290 for any negotiated subagreement or change order and a copy of the cost summary submitted to the recipient. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, the recipient, and (the State) or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The contractor will provide proper facilities for such access and inspection.

(b) If this is a formally advertised, competitively awarded, fixed price subagreement, the contractor agrees to make paragraphs (a) through (g) of this clause applicable to all negotiated change orders and subagreement amendments affecting the subagreement price. In the case of all other types of prime subagreements, the contractor agrees to make paragraphs (a) through (g) applicable to all subagreements he awards in excess of $10,000, at any tier, and to make paragraphs (a) through (g) of this clause applicable to all change orders directly related to project performance.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or audit agency(ies).

(d) The contractor agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).

(e) Records under paragraphs (a) and (b) above shall be maintained by the contractor during performance on EPA assisted work under this subagreement and for the time periods specified in 40 CFR Part 30. In addition, those records which relate to any controversy arising under an EPA assistance agreement, litigation, the settlement of claims arising out of such performance or to costs or items to which an audit exception has been taken shall be maintained by the contractor for the time periods specified in 40 CFR Part 30.

(f) Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records at any reasonable time for as long as the records are maintained.

(g) This right of access clause applies to financial records pertaining to all subagreements (except formally advertised, competitively awarded, fixed price subagreements) and all subagreement change orders regardless of the type of subagreement, and all subagreement amendments regardless of the type of subagreement. In addition this right of access applies to all records pertaining to all subagreements, subagreement change orders and subagreement amendments:

(1) To the extent the records pertain directly to subagreement performance;

(2) If there is any indication that fraud, gross abuse or corrupt practices may be involved; or

(3) If the subagreement is terminated for default or for convenience.

10. Covenant Against Contingent Fees

The contractor assures that no person or selling agency has been employed or retained

to solicit or secure this subagreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this assurance, the recipient shall have the right to annul this agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

11. Gratuities

(a) If the recipient finds after a notice and hearing that the contractor or any of the contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the recipient, the State or EPA in an attempt to secure a subagreement or favorable treatment in awarding, amending or making any determinations related to the performance of this subagreement, the recipient may, by written notice to the contractor, terminate this subagreement. The recipient may also pursue other rights and remedies that the law or this subagreement provides. However, the existence of the facts on which the recipient bases such findings shall be in issue and may be reviewed in proceedings under the Remedies clause of this subagreement.

(b) In the event this subagreement is terminated as provided in paragraph (a), the recipient may pursue the same remedies against the contractor as it could pursue in the event of a breach of the subagreement by the contractor, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount (as determined by the recipient) which shall be not less than three nor more than ten times the costs the contractor incurs in providing any such gratuities to any such officer or employee.

12. Buy American

This clause applies only to construction subagreements award under 40 CFR Part 35 Subparts E and I. In accordance with section 215 of the Clean Water Act (33 U.S.C. 1251 et seq.) and implementing EPA regulations, the contractor agrees that preference will be given to domestic construction material by the contractor, subcontractors, materialmen and suppliers in the performance of this subagreement.

13. Responsibility of the Contractor

(a) The following clause applies only to subagreements for services. (1) The contractor is responsible for the professional quality, technical accuracy, timely completion and coordination of all designs, drawings, specifications, reports and other services furnished by the contractor under this subagreement. If the subagreement involves environmental measurements or data generation, the contractor shall comply with EPA quality assurance requirements in 40 CFR 30.503. The contractor shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and other services.

(2) The contractor shall perform the professional services necessary to accomplish the work specified in this subagreement in accordance with this subagreement and applicable EPA requirements in effect on the date of execution of the assistance agreement for this project.

(3) The owner's or EPA's approval of drawings, designs, specifications, reports and incidental work or materials furnished hereunder shall not in any way relieve the contractor of responsibility for the technical adequacy of his work. Neither the owner's nor EPA's review, approval, acceptance or payment for any of the services shall be construed as a waiver of any rights under this agreement or of any cause for action arising out of the performance of this subagreement.

(4) The contractor shall be, and shall remain, liable in accordance with applicable law for all damages to the owner or EPA caused by the contractor's negligent performance of any of the services furnished under this subagreement, except for errors, omissions or other deficiencies to the extent attributable to the owner, owner-furnished data or any third party. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control.

(5) The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this subagreement or State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment or work.

(b) The following clause applies only to subagreements for construction. (1) The contractor agrees to perform all work under this subagreement in accordance with this agreement's designs, drawings and specifications.

(2) The contractor guarantees for a period of at least one (1) year from the date of substantial completion of the work that the completed work is free from all defects due to faulty materials, equipment or workmanship and that he shall promptly make whatever adjustments or corrections which may be necessary to cure any defects, including repairs of any damage to other parts of the system resulting from such defects. The owner shall promptly give notice to the contractor of observed defects. In the event that the contractor fails to make adjustments, repairs, corrections or other work made necessary by such defects, the owner may do so and charge the contractor the cost incurred. The performance bond shall remain in full force and effect through the guarantee period.

(3) The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this subagreement or State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment or work.

14. Final Payment

Upon satisfactory completion of the work performed under this subagreement, as a condition before final payment under this subagreement or as a termination settlement under this subagreement the contractor shall execute and deliver to the owner a release of all claims against the owner arising under, or by virtue of, this subagreement, except claims which are specifically exempted by the contractor to be set forth therein. Unless otherwise provided in this subagreement, by State law or otherwise expressly agreed to by the parties to this subagreement, final payment under this subagreement or settlement upon termination of this subagreement shall not constitute a waiver of the owner's claims against the contractor or his sureties under this subagreement or applicable performance and payment bonds.

Subpart G—Protests

§ 33.1105 Applicability and scope of this subpart.

This subpart sets forth EPA's administrative process for the rapid resolution of protest appeals filed with the award official.

§ 33.1110 Recipient protest procedures.

(a) Recipients must establish their own procedures for prompt consideration of initial protests concerning their solicitations or contract awards. A "protest" is a written complaint concerning the recipient's solicitation or award of a subagreement. It must be filed with the recipient by a party with a direct financial interest adversely affected by a recipient's procurement action (see § 33.1130 "Review of protest appeal").

(b) The recipient should review each protest received to determine whether it is appropriate to defer the protested procurement action.

(c) If the recipient does not defer the procurement action, it assumes the risk that the award official may disallow the cost of the protested procurement action if the protest appeal is upheld.

§ 33.1115 Protest appeal.

(a) A party with a financial interest which is adversely affected by the recipient's decision on the initial protest may file a "protest appeal" with the award official.

(b) A "protest appeal" is a written complaint filed with the award official regarding the recipient's determination of a protest.

§ 33.1120 Limitations on protest appeals.

(a) The award official shall not accept a protest appeal until the protester has exhausted all administrative remedies at the recipient level.

(b) A protest appeal is limited to the following:

(1) Issues arising under the procurement provisions of this Part, or

(2) Alleged violations of State or local law or ordinances where the award official determines that there is an overriding Federal requirement.

(c) A recipient of a lower tier subagreement (subcontract) may only file a protest appeal for issues which relate to the award of a subagreement by a contractor (see § 33.295 "Subagreements awarded by a contractor").

§ 33.1125 Filing requirements.

(a) Protest appeals must be filed with the Assistant General Counsel for Grants for Headquarters'-awarded assistance agreements and with the Office of Regional Counsel for regionally awarded assistance agreements.

(b) A protest appeal must:

(1) Be written;

(2) Include a copy of the recipient's determination of the protest;

(3) State the basis for the appeal; and

(4) Request a determination under this subpart.

(c) Upon filing a protest appeal with the Regional Counsel or Assistant General Counsel for Grants, as appropriate, the party filing the protest appeal must concurrently transmit a copy of all protest documents and any attachments to all other parties with a direct financial interest which may be adversely affected by the determination of the protest appeal.

(d) The award official will only consider written protest appeals received by the appropriate Counsel's office within seven calendar days after the adversely affected party receives the recipient's determination of protest. However, the adversely affected party can meet the seven-day notice requirement by telegraphing the Counsel within the seven-calendar-day period of its intent to file a protest appeal, provided the adversely affected party submits a complete protest appeal within seven calendar days of the date it sends the telegram. If the seventh day falls on a Saturday, Sunday or holiday, the next working day shall be the last day to submit a protest appeal.

(e) Any party which submits a document to the award official during the course of a protest appeal must simultaneously furnish all other affected parties with a copy of the document.

§ 33.1130 Review of protest appeal.

(a) If the recipient does not receive the initial protest before bid opening or the closing date for receipt of proposals, the award official may dismiss as untimely any protest appeal based upon alleged improprieties in the solicitation which were clearly apparent before bid opening or before the deadline for receipt of initial proposals. In negotiated procurements, protests of alleged improprieties which were incorporated in a new solicitation must have been received by the recipient by the closing date for receipt of proposals for the new solicitation.

(b) In cases not involving improprieties in the solicitation, the award official may dismiss as untimely a protest appeal if the adversely affected party did not file the initial protest with the recipient within seven calendar days of the date the basis for the protest was known or should have been known, whichever is earlier.

§ 33.1140 Deferral of procurement action.

When the award official receives a protest appeal and the recipient has not deferred the procurement action under § 33.1110(b), the award official must promptly request that the recipient defer the protested procurement action until the award official notifies the recipient of the formal or informal resolution of the appeal. The request shall be limited to the award of the subagreement or subitem which is the basis of the protest appeal.

§ 33.1145 Award official's review.

(a) The award official may establish rules of procedures or deadlines for the submission of materials or the arrangement of protest appeal conferences.

(b) The award official may summarily dismiss an appeal without proceedings under this subpart if:

(1) The protest appeal is not reviewable, see § 33.1130, or addresses issues other than those allowed under § 33.1120(b);

(2) The protester substantially fails to comply with the procedural requirements of this subpart; or

(3) The protester does not agree to the recipient's request for a reasonable extension of the bid and bond period.

(c) The award official may summarily deny a protest appeal without proceedings under this subpart if, after considering the facts in a light most favorable to the protester, the award official believes that the protest lacks merit.

(d) The award official will give both the recipient and the protester, as well as any other party with a financial interest which may be adversely affected by the determination of protest, an opportunity to present arguments in support of their views in writing or at a conference.

(e) After the announced date for receipt of written arguments, the record shall be closed.

(f) The award official shall review the record considered by the recipient and any other documents or arguments presented by the parties to determine whether the recipient has complied with the procurement requirements of this part and has a rational basis for its determination of protest.

(g) The award official's determination shall constitute final EPA action from which there shall be no further administrative appeal. No party may appeal an award official's determination of appeal to the EPA Board of Assistance Appeals.

(h) Nothing in this subpart precludes the award official from reviewing the recipient's procurement action. (See § 33.115.)

(i) Noncompliance with the award official's determination of protest shall be cause for an action against the recipient under 40 CFR Part 30 or 32.

(j) If an appeal involves legal issues not explicitly addressed by this part, the award official shall resolve the issue by referring to other protest determinations under this section and decisions of the Comptroller General of the United States or of the Federal courts addressing Federal requirements comparable to procurement requirements of this part.

Appendix A.—Procedural Requirements for Recipients Who Do Not Certify Their Procurement Systems, or for Recipients Who Have Their Procurement Certifications Revoked By EPA

(a) The following procedural requirements apply to recipients who:

(1) Do not certify to EPA that their procurement system meets the minimum procurement requirements in this part, or

(2) Have their procurement certification revoked by the award official, as stated in § 33.115(b).

(b) Those recipients must comply with the requirements in this part plus the following procedural requirements. These procedural requirements supplement the requirements in the sections cited.

(1) To comply with § 33.250, "Documentation," the recipient must submit to the award official the records required by this section.

(2) To comply with § 33.290, "Cost and price considerations," the recipient's contractors and subcontractors must submit their cost or price data on EPA Form 5700-41, "Cost or Price Summary Format for Subagreements Under U.S. EPA Grants," or in another format which provides information similar to that required by EPA Form 5700-41.

(3) To comply with § 33.415, "Time for preparing bids," the recipient must allow at least 30 days between the date when it first publishes the public notice and the date by which bids must be submitted.

(4) To comply with § 33.415, "Public notice and solicitation of bids," the recipient must publish the notice in professional journals,

newspapers, or publications of general circulation over a reasonable area for at least 30 days before bid opening.

(5) To comply with § 33.510, "Adequate public notice," the recipient must publish the notice in professional journals, newspapers, or publications of general circulation over a reasonable area for at least 30 days before the deadline for receipt of proposals. The recipient may use posted public notices or written notification directed to interested persons, firms or professional organizations.

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Monday
March 28, 1983

Part III

Department of the Treasury

Internal Revenue Service

Income Tax; Information Reporting Requirements With Respect to Interest and Original Issue Discount, and Withholding From Interest, Dividends, and Patronage Dividends; Final Regulations

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 35

[T.D. 7880]

Income Tax; Withholding From Interest, Dividends, and Patronage Dividends

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to withholding from interest, dividends, and patronage dividends and to depositing such amounts. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). These regulations affect payors and payees of interest, dividends, and patronage dividends and provide them with guidance necessary to comply with the law.

DATES: Effective on March 22, 1983, except for § 31.3452(f)-1 which is effective February 1, 1983. The regulations apply to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, except that the regulations relating to exemption certificates (§ 31.3452 (f)-1) are effective on February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia K. Keesler (with respect to patronage dividends (202-566-3430)), John A. Tolleris (with respect to deposits of amounts withheld (202-566-3294)), or Pamela F. Olson (with respect to all other provisions (202-566-3828 or 566-3829)), of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T).

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1982, the **Federal Register** published proposed amendments to the Employment Tax and Collection of Income Tax at Source Regulations (26 CFR Part 31) under sections 3451 through 3456, 6011, 6071, 6302, and 7512 of the Internal Revenue Code of 1954 (47 FR 51421). These amendments were proposed to conform the regulations to the statutory changes enacted by sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 324, 576). The Service received over 200 written comments responding to this notice and a public hearing was held on February 1, 1983. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision with several revisions in response to those comments. The comments and revisions are discussed below.

Public Comments

A number of the public comments concerned the provisions for obtaining an extension of the date to begin withholding because of undue hardship. Several commenters suggested that a blanket waiver applicable to all payors should be adopted. Since this suggestion is contrary to Congress' intent as expressed in the legislative history of the Act, this change was not adopted.

Recognition has been given, however, to the difficulty of payors' complying with the requirement of withholding on original issue discount because of the lack of readily available sources providing original issue price which is necessary for computation of the tax. Accordingly, the requirement of withholding with respect to original issue discount has been delayed to January 1, 1984. The service is compiling a list of publicly-traded obligations issued at a discount that will show the issue price of the obligations, the amount of original issue discount includible in income of the holder for the calendar year, and other pertinent information. The Service will commence publication of this information in June 1983. The regulations permit payors to rely on the compilation provided by the Service in determining the amount of original issue discount includible in income and subject to withholding. This deferred effective date is not applicable to United States savings bonds (which are not subject to section 1232A) or to stated interest paid with respect to original issue discount obligations.

Several commenters requested that specific guidance be provided as to the definition of the term "undue hardship". Accordingly, the Service will issue a revenue ruling (Rev. Rul. 83-55) and a revenue procedure (Rev. Proc. 83-20) shortly which will explain the circumstances under which an extension of the time to begin withholding will be granted and the means for applying for an extension. Both Rev. Rul. 83-55 and Rev. Proc. 83-20 will be published in the Internal Revenue Bulletin for March 28, 1983, 1983-13 I.R.B.

Several commenters inquired as to the payment of tax where computation of the tax yields a fractional cent. Accordingly, a cross-reference to section 6313 and § 301.6313-1 (payment of tax where computation of the tax yields a fractional cent) has been provided.

Several commenters requested further clarification of the definition of the term "paid or credited". Accordingly, clarifying language and an additional example have been provided. The clarifying language provides that, in the case of a corporate reorganization, where the holder of stock in one corporation must exchange the stock for stock in another corporation before such other corporation will pay dividends to the holder, the dividends are treated as paid and subject to withholding when the corporation makes payment of the dividend generally, without regard to whether the holder of the stock has exchanged it and actually has received the dividend. The example makes it clear that if a payment is made or credited on a date other than the payor's customary payment or crediting date, the payor is required to withhold on such other date.

The regulations have been revised to make it clear that a payment of property or merchandise as interest (or in lieu of a cash payment of interest) is subject to withholding, that the amount which is subject to withholding is 10 percent of the fair market value of the property or merchandise, and that the tax required to be withheld may be withheld from an alternative source.

Many of the comments received indicated that the unknown payee rule was difficult to apply and suggested that the payor be allowed a reasonable period of time in which to identify the payee. Accordingly, the regulations have been amended to allow payors 60 days to identify the payee. If the payor identifies the payee prior to the expiration of the 60 day period, the payor must withhold at that time. If the payor has not identified the payee within 60 days, it must, nevertheless, withhold the tax on the 60th day. A payor may, in its discretion, withhold on an earlier date.

A special provision was added to the unknown payee section to except from its application payors who make payments exclusively to exempt recipients.

Several commenters requested additional language in the alternative source provisions to make it clear that the election to withhold from an alternative source is at the election of the payor unless the payor chooses to allow the payee to elect it. In addition, the provision has been amended to allow use of an alternative source which is owned by at least one of the person(s) to whom the payment is made provided that the payor obtains a written statement from the non-common owner allowing the payor to do so.

A number of commenters requested that the exempt recipient section of the regulations be amended to make it

easier for payors to use the "eyeball test" in determining whether a person is an exempt recipient. For example, a number of commenters stated that it was common for corporations not to carry an expression of corporate limited liability in the names by which they were known in the investment community. These persons stated that the payee would generally have a corporate resolution or similar document on file with the payor. Accordingly, the regulations have been amended to allow a payor to treat a person as an exempt recipient which is known to the payor to be a corporation through such a document. The list of unambiguous expressions of corporate status on which the payor may rely in the corporate area in determining whether the payee is an exempt recipient has been expanded to include "insurance company", "indemnity company", "reinsurance company", and "assurance company". A payor may not rely on "Company" or "Co." in determining whether a payee is an exempt recipient, because such term may apply to partnerships (which are not exempt recipients).

Several groups commented that it was common business practice in the insurance and other industries for corporations to form a pool, syndicate, partnership, or unincorporated association to carry on business and that requiring withholding merely because the corporations had joined together to do business did not seem the intent of the statute. Accordingly, the definition of "corporation" has been amended to include a pool, syndicate, partnership, or unincorporated association composed exclusively of corporations or insurance companies. A parallel change has been added to the definition of "State" because States or their political subdivisions frequently pool their assets to invest them. Thus, the defintion of "State" has been amended to include a pool or partnership composed exclusively of State governments or their political subdivisions, agencies, or instrumentalities.

Payors may treat States and their political subdivisions known in the community to be such as exempt recipients even though they have not filed an exemption certificate with the payor. A payor may treat a foreign government or its political subdivision which is known to the payor to be such as an exempt recipient even though it has not filed an exemption cerificate with the payor.

The proposed regulations require a regulated investment company to be registered as such the entire taxable year in order to qualify as an exempt recipient. One commenter noted that this definition would exclude a regulated investment company formed during the taxable year for the first year. The commenter suggested that the definition be amended to include a regulated investment company formed during the taxable year so long as it was registered as such during the entire portion of the year for which it was in existence. This suggestion has been adopted.

With respect to middlemen as exempt recipients, the regulations have been amended to allow payors to treat nominees known in the community as such, or listed in the most recent publication of the American Society of Corporate Secretaries, Inc. Nominee List, as an exempt recipient without an exemption certificate.

Several persons commented that it was frequently the case that a middleman is an exempt recipient not only because it is a middleman but also because it is a corporation or a broker-dealer, etc. The commenters stated that the regulations could be interpreted to require, for example, a corporation to file an exemption certificate when it was acting as a nominee. The regulations have been amended to make it clear that an exempt recipient which is not required to file an exemption certificate in order to be treated as such is not required to file one when it acts as a middleman.

With respect to minimal interest payments several persons, inquired whether a separate annualization computation had to be made for every account opened between the payor's customary paying or crediting dates. Since this creates administrative and programing problems for the payors, they requested that, with respect to accounts opened during the payment cycle, they be allowed to assume that the payment was made for the entire payment cycle. This suggestion has been adopted.

One commenter inquired whether obligations of different types presented for payment in one transaction had to be aggregated to determine whether the payor is making a minimal interest payment. Examples have been provided which make it clear that obligations of different types must be aggregated. In addition, the examples make it clear that payors must annualize original issue discount at maturity of an obligation if the period with respect to which the original issue discount relates is less than 1 year.

With respect to exemption certificates, a number of persons expressed concern regarding the requirement that substitute forms prepared by the payor be "identical to" the form prepared by the Service. Accordingly, the regulations have been amended to require that the provisions of the substitute form be "substantially similar to" the Service's form.

Several comments were received concerning the treatment of joint accounts where one or more owners of the account are exempt individuals or exempt recipients. The rule in the regulations allows a payor to treat a payment as one made to an exempt individual or exempt recipient if the person with respect to whom the payor is required to file an information return files an exemption certificate with the payor. Some commenters suggested that this rule should be liberalized to allow payors to treat a payment as one made to an exempt person if any of the owners filed an exemption certificate with the payor. Since such a rule would allow persons to circumvent the purpose of the withholding provisions, and would be difficult for the Service to administer, this suggestion has not been adopted.

Payors are given 45 days from the dividend record date (as opposed to the payment date) to make an exemption certificate effective for a dividend. A similar provision was requested for a payment of interest on a registered bond which has a payment record date similar to the dividend record date. This change has been adopted.

Several groups commented that it would be administratively difficult for payors to revoke an exemption certificate within 45 days of the termination of a payor-payee relationship. They suggested that a payor should be allowed to keep the certificate until the payor has purged its records of the relationship with the payee. Accordingly, a payor has been given discretion in continuing to maintain an exemption certificate in that instance. However, if the payee reestablishes its relationship with the payor before the payor purges the exemption certificate, the payor must inform the payee that the payor is still treating the payee as exempt.

The Service received numerous comments on the rules governing middlemen treated as payors. Many of these comments concerned whether certain persons were included in the definition of middlemen. Several examples and clarifying language have been added in this area. The examples illustrate that trusts, partnerships, and

individuals are not middlemen (unless otherwise acting in a capacity as middlemen such as a nominee), and that distributions from a trust (including distributions of certain charitable trusts which are exempt recipients) or a partnership are not subject to withholding. Language has been added to specifically provide that an individual is not a middleman when acting as custodian of a minor's account.

Several commenters suggested that a common trust fund should be allowed to withhold at the time that it makes or credits a payment to a payee's account. This proposed change has been adopted.

The Service received several inquiries as to the rules to be applied where a payor was, for example, both a middleman and a paying agent. Thus, this section has been amended to illustrate that a payor in that situation treats the payment as though it were made between separate institutions. For example, if the payor is a bank acting as a paying agent with respect to shares of stock which it holds for a customer as a nominee, the bank, in its capacity as a paying agent, should treat the payment as though it were making the payment to a separate institution. When the bank receives the dividend payment in its capacity as a nominee, it should treat the payment as though received from another institution.

A number of persons commented that the rules proposed with respect to avoiding double withholding were not adequate to deal with certain situations middlemen-payors might expect to encounter. For example, tax may be withheld from a payment because an exemption certificate that has been filed is not yet effective. The regulations have been amended to provide that, in such a case, a middleman-payor may adjust deposits of the tax which the middleman-payor is required to make, claiming a credit for the amount of tax withheld by the upstream payor. The middleman-payor would then withhold the tax from the payment if its payee is not exempt or pay the full amount to the payee if the payee is exempt.

A number of comments requested clarification of the definition of interest. Thus, specific language has been added to this section to include within the definition of interest repurchase agreements, banker's acceptances, and merchandise or property provided as interest (or in lieu of a cash payment of interest). In addition, specific language has been added to exclude from the definition of interest subject to withholding interest paid with respect to mortgage escrow accounts; interest paid by an insurance company because a payment has been delayed where the interest is not paid by reason of agreement with the insurance company; interest paid on tax refunds; interest paid on amounts held in escrow to provide security or to guarantee performance on a contract; and interest paid with respect to security deposits (unless the amount is deposited in a bank or savings institution).

With respect to the exception from withholding for interest on an obligation of a natural person, a number of commenters questioned whether collection of interest for the holder of the obligation by a middleman made the interest subject to withholding. The regulations have been amended to make it clear that middlemen are not required to withhold on interest paid on an obligation of a natural person.

Several commenters stated that it is difficult in some cases to identify coupons from obligations that are tax exempt and, therefore, exempt from withholding. They requested that they be allowed to obtain and rely on a written statement from the payee that the obligation is tax exempt. This suggestion has been adopted. The regulations require payees to provide a signed statement on the envelope (shell) used for processing interest coupons, that the interest payment is tax exempt, and to properly complete the envelope (with the payee's name, address, and social security number). The payor may rely on such certification in treating the interest as tax exempt and will not be liable for the tax under section 3451(a).

With respect to adjusting the amount of interest subject to withholding for imposition of a penalty for premature withdrawal, several commenters suggested clarification that payors are not required to refund to the payee any amount of tax withheld by the payor prior to the time of withdrawal if the penalty imposed exceeds the amount of interest credited to the payee on that date. An example has been added to the regulations to illustrate the result in that situation.

With respect to the definition of dividends, commenters raised questions about the treatment of both taxable dividend reinvestment plans and qualified public utility dividend reinvestment plans. With respect to taxable plans which are subject to withholding, the regulations proposed the rule that payors were not required to withhold on any amount other than the amount of the actual cash dividend declared. The payor could choose to ignore fees, commissions, and any discount in purchase price of the shares in computing the tax. Some payors stated that they would prefer to withhold 10 percent of the dollar amount posed to the plan participant's account, which would include market discount, etc. The regulations have been revised to make it clear that the payor may elect to do so.

With respect to qualified public utility dividend reinvestment plans which are not subject to withholding, several commenters inquired whether they were required to withhold with respect to a dividend paid to a person not qualified for a dividend exclusion or for a dividend which exceeded the amount which statutorily could be excluded from income. They stated that administration of a qualified plan would be difficult if withholding were required in those cases. Accordingly, the regulations have been amended to provide that the amount of the dividend as well as the identity of the person to whom the dividend is paid is irrelevant and that, therefore, dividends reinvested by such plans will not be subject to withholding.

With respect to a capital gain dividend distributed by a regulated investment company or a real estate investment trust, the proposed regulations provided that withholding was not required. One commenter stated that it should be clarified that undistributed capital gain dividends of a regulated investment company or a real estate investment trust also are not subject to withholding. The comment has been adopted.

Under the proposed regulations, the election to withhold on an annual basis must be made by the 5th business day of the calendar year. One commenter noted that that rule could have the effect of making the annual withholding election unavailable for accounts offered for the first time during the calendar year. Thus, the regulations have been amended to allow a payor to make the election by the 5th business day after it offers an account for the first time.

Several comments sought clarification regarding the relationship between the annual withholding election and the minimal interest payment election and between annual withholding and withholding from an alternative source. The regulations have been amended to illustrate the relationship between the elections. With respect to minimal interest payments and annual withholding, the amendments illustrate that a payor makes a determination on each interest paying or crediting date of the amount of interest (if any) that must be withheld and holds that amount in the payee's account. At year end, the payor must withhold the amount of tax as previously determined. The payor

does not adjust the amount of tax which must be withheld at year end based on the payor's actual knowledge on that date of whether the payee has been paid more or less than $150 for the calendar year.

With respect to alternative source and annual withholding, the types of payments for which the payor can withhold annually are clearly limited. A payor cannot make additional types of payments subject to the annual withholding election by electing to withhold the tax on those payments from an alternative source for which the payor has made the annual withholding election. If the payor elects to withhold tax on a payment that is ineligible for annual withholding, it must withhold the tax from that source at the time it makes the payment.

Several commenters requested further guidance as to the types of accounts for which the annual withholding election was available. Pursuant to section 3456(d) and consistent with Congressional policy expressed in section 327(c)(1) of the Depository Institutions Act of 1982 (Pub. L. 97-320), the regulations have been amended to allow annual withholding for the accounts now offered by money market mutual funds that are similar to the new "Money Market Deposit Accounts" and "Super NOW" accounts offered by banks and savings institutions.

With respect to refunds of tax where there has been overwithholding, several persons have commented that the requirement of a receipt set forth in the regulations creates administrative difficulties. Several commenters suggested that payors be allowed to retain a cancelled check as the receipt or that an indication on the payee's statement suffice as a receipt. These suggestions have been adopted and any further comments or suggestions will be given careful consideration.

The proposed regulations provide that amounts paid to certain persons who are not United States persons will not be considered to be interest subject to withholding under section 3451. Under the proposed regulations, a payor may treat a payee as a foreign person for this purpose if the payor receives a statement, signed by the payee under penalties of perjury, that the payee is not a United States person. In addition, if the payee is an individual, he must establish that he holds a passport from a country other than the United States. Various comments have indicated that the passport requirement is unduly burdensome, as many foreign individuals do not have passports and as, with respect to transactions effected other than in person, it is difficult administratively to confirm the possession of a non-United States passport. In response to these comments, the passport procedure has been eliminated.

The regulations have been amended to expand upon the types of information that should be provided on the statement certifying the status of a payee as a non-United States person. Specifically, the statement must contain the name, address, and taxpayer identification number (if any) of the payee. In response to a request by various commenters that a special Internal Revenue Service form be provided for this statement, the regulations have been modified to indicate that an optional form (W-8) will be provided by the Internal Revenue Service for this purpose.

Commenters also have requested clarification of the situations in which the statement described above must be provided to a payor. The regulations have been clarified to indicate that, in order to avoid withholding, the statement generally must be provided to the payor in each instance in which an exception to the definition of interest is dependent on a payee's status as a person who is not a United States person. However, the regulations have been amended to provide that the statement will not be required with respect to a particular payment made in a calendar year if, with respect to that or any other payment that is or may be made by the payor to the payee in that year, the payor has received a Form 1001, a Form 4224 or other appropriate documentation indicating either that the payment is subject to reduced rates of tax under a treaty or is effectively connected to a United States trade or business of the payee. Similarly, the statement certifying the status of the payee as a foreign person is not required with respect to a particular payment made to a payee in a calendar year if the payor has actually withheld tax under subchapter A of chapter 3 of the Code on that or on any other payment made to the payee during that year.

Certain exceptions to the definition of interest are provided in the proposed regulations for amounts paid by various enumerated foreign entities (*e.g.*, a foreign corporation not engaged in trade or business in the United States during the calendar year). The regulations have been amended to provide more clearly that the exceptions apply only if one of the enumerated foreign entities is the obligor on an obligation with respect to which the amount in question is paid. Thus, the status of a paying agent or middleman as one of the enumerated foreign entities is not material to the issue of whether the amount paid by such paying agent or middleman is to be considered interest for purposes of withholding. Similarly, the fact that a paying agent or middleman is not one of such enumerated foreign entities will not cause an amount paid on an obligation issued by one of such entities to be recharacterized as interest subject to withholding.

As is the case of interest, certain amounts paid to persons who are not United States persons are excepted from the definition of dividend in the proposed regulations. The regulations are expanded to indicate that the procedures prescribed for determining whether interest is paid to a person who is not a United States person are to be followed for purposes of determining whether dividends are paid to such a person.

Under the proposed regulations a payor is responsible for determining whether foreign currency, not readily convertible into United States dollars, is nevertheless indirectly convertible into United States dollars. The regulations have been amended to give the responsibility for making this determination to the Secretary.

Several commenters questioned whether the transitional float provided under the rules concerning the time for depositing taxes withheld would compensate payors adequately for the costs of implementing withholding. The Service and Treasury Department are continuing to review data as to payors' costs of complying with the withholding system. In many cases, more accurate information as to start-up costs will not be available until the withholding provisions become effective because payors' full expenditures will not be known until that time.

Non-Applicability of Executive Order 12291

The Commissioner has determined that this Treasury decision is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this regulation because it will not have a significant economic impact on a substantial number of small entities.

Most of the impact that withholding from interest, dividends, and patronage dividends will have on both small entities and the economy in general is due to requirements imposed directly by the statute. In the areas in which the Service has been given significant discretion under the statute, the Service has exercised its discretion so as to minimize the potential impact of withholding while at the same time ensuring compliance with the statute.

For example, the statute permits regulations to be issued that require aggregation of interest payments in different accounts of a payee before determining whether the $150 minimal interest payment exception from withholding can be applied. The Service has determined that most entities do not currently have the capability to aggregate these payments, and so has not required that aggregation be done at the present time. If, however, the Commissioner determines that there is abuse or avoidance of withholding contrary to the legislative intent in enacting these provisions due to the absence of aggregation, regulations will be issued requiring aggregation of interest payments made by the payor to a payee.

The Service has written the regulations so that the time within which entities are required to deposit the taxes they withhold takes into account the cost of instituting withholding. All entities will be able to hold the amounts withheld for up to approximately 30 calendar days from the day the amounts are withheld during the first calendar year of withholding. Further, medium-sized financial institutions will be able to do so for one additional year, and small financial institutions will be able to do so for two additional years.

The Service has also written the deposit regulations to provide that only an annual (rather than a quarterly) return need be filed by payors to reconcile deposits actually made with total liability. This will lessen the paperwork and administrative burden on payors.

Many entities requested that they be able to prepare and provide exemption certificates containing preprinted customer information to individuals and recipients who are exempt from withholding. The entities stated that doing this could substantially reduce their processing costs. The Service has given entities the authority to do this (see Rev. Proc. 82-64, for the requirements relating to substitute forms) as well as permission to refuse to accept forms the entity itself has not prepared, so long as the entity promptly furnishes to the customer an acceptable form. This gives entities maximum flexibility while at the same time ensuring that customers eligible for exemption will easily be able to claim it.

Payors are not required to verify the correctness of an exemption certificate. An individual payee is subject to a civil penalty of $500 if the individual supplies false information with respect to withholding (by, for example, claiming to be an exempt individual when not eligible for that status). In addition, all payees are subject to a criminal fine of as much as $500 or up to 1 year of imprisonment or both if the payee supplies false information or fails to revoke an exemption certificate.

Many payors stated that they will need at least a month in order to make exemption certificates effective. The regulations provide them with needed flexibility by requiring that exemption certificates be made effective within 45 days of filing, but permitting payors to make them effective sooner if they choose.

Some payors stated that, due to the volume of exemption certificates they will be receiving, they must have permission to retain only a microfilm or microfiche copy of the exemption certificate and to destroy the paper certificate. The Service issued Rev. Proc. 83-6, which clarifies that Rev. Proc. 81-46 (1981-2 C.B. 621) (relating to the standards for microfilm or microfiche retention of books and records) applies to exemption certificates.

Drafting Information

The principal authors of these regulations are Patricia K. Keesler, Pamela F. Olson, and John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.6001-1 through 1.6109-2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding, Interest, Dividends, Patronage dividends.

Adoption of Amendments to the Regulations

PART 35—[AMENDED]

§§ 35.3451(a)-1 Through 35.9999-1 [Removed]

Accordingly, §§ 35.3451(a)-1 through 35.9999-1 of Part 35 are removed from the Code of Federal Regulations, the title of 26 CFR Part 31 is revised to read "Employment Taxes and Collection of Income Tax at Source", in Part 31, the title of Subpart E is revised to read "Collection of Income Tax at Source", and the following amendments are made to 26 CFR Part 1 and 26 CFR Part 31:

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1983

§ 1.6045-1 [Amended]

Paragraph 1. Paragraph (c)(3)(i) and (ii) of § 1.6045-1 is amended by removing references to § 35.3452(c)-1 and inserting in lieu thereof references to § 31.3452(c)-1.

Par. 2. Paragraph (c)(3)(v)(*c*) of § 1.6045-1 is amended by removing the reference to § 35.3455(b)-1 (b)(1) and inserting in lieu thereof a reference to § 31.3455(b)-1 (b)(1).

Par. 3. Examples (1) and (2) of paragraph (c)(4) of § 1.6045-1 are amended by removing references to § 35.3452(c)-1 (j) and inserting in lieu thereof references to § 31.3452(c)-1 (j).

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 4. The following sections are added to Subpart F after § 31.3404-1:

§ 31.3451(a)-1 Requirement of withholding on payments of interest, dividends, and patronage dividends.

(a) *In general.* Except as provided in section 3452(a) and § 31.3452(a)-1, every payor (as defined in section 3453 and § 31.3453(a)-1) making a payment of interest (as defined in section 3454(a) and § 31.3454(a)-1), dividends (as defined in section 3454(b) and § 31.3454(b)-1), or patronage dividends (as defined in section 3454(c) and § 31.3454(c)-1)) is required to withhold a tax equal to 10 percent of such payment. For the payment of tax where computation of the tax yields a fractional cent, see section 6313 and § 301.6313-1.

(b) *Conversion of amounts paid in foreign currency into United States dollars.*—(1) *Convertible foreign currency.* In the event that an amount is paid or credited in convertible foreign currency, the amount shall be converted

into United States dollars, and the amount subject to withholding under section 3451 shall be computed on such United States dollar amount, on the date of the payment or crediting. The tax withheld shall be paid in United States dollars. For purposes of this subparagraph, the term convertible foreign currency means currency of a foreign country that either is readily convertible into United States dollars or is of a type the Secretary determines is to be treated as a convertible foreign currency from the date specified in a notice of such determination published in the **Federal Register.**

(2) *Nonconvertible foreign currency.* [Reserved]

(c) *Effective date.*—(1) *In general.* This section is effective for interest, dividends, and patronage dividends paid or credited after June 30, 1983, except as provided in paragraph (c)(2) and paragraph (d) of this section.

(2) *Exemption certificates.* Section 31.3452(f)–1 (relating to exemption certificates) is effective on February 1, 1983.

(d) *Extension of time to begin withholding.* If a payor has attempted in good faith to comply with the requirements of this section and cannot do so without undue hardship, such payor may seek a waiver of part or all of the withholding requirements. An application for a waiver must be made in writing and must fully set forth—

(1) The specific portion of the payor's operations for which a waiver is sought,

(2) The reasons such payor is unable to comply with the requirements of this section without undue hardship, and

(3) The steps taken which demonstrate such payor's good faith attempt to comply with such requirements.

In general, an application for a waiver should be made no earlier than April 1, 1983, in order to allow the Service to evaluate the payor's attempt to comply with the withholding requirements, and no later than May 15, 1983 (except in the case of an unforeseen event occurring after such date). Such application shall be in the form required by the applicable revenue procedure. Any such waiver shall be granted for only so long as is necessary to allow the payor to avoid undue hardship, but in no event shall a waiver extend beyond December 31, 1983. Such waiver shall apply only to the portion of the operations of the payor as is necessary to permit the avoidance of undue hardship.

§ 31.3451(b)(1)–1 Time and manner of withholding on interest, dividends, and patronage dividends.

(a) *In general.* A payment shall be treated as made and the tax imposed by section 3451 shall be deducted and withheld by the payor at the time interest, dividends, or patronage dividends are paid or credited to the payee. Amounts are paid or credited when they are credited to the account of or set apart for the payee. Amounts are not considered paid or credited solely because they may be withdrawn by the payee, so long as they are not credited to the payee's account until either actual withdrawal or a specified crediting date. They are, however, paid or credited upon withdrawal or crediting. When bonds are sold between interest dates, the part of the sales price representing interest accrued to the date of sale is not considered to be paid or credited for purposes of section 3451. In the case of stock for which the record date is earlier than the payment date, the dividends is paid or credited on the payment date. In the case of a corporate reorganization, if a payee is required to exchange stock held in the former corporation for stock in the new corporation before the dividends which have been paid with respect to the stock in the new corporation will be provided to the payee, the dividend is paid or credited on the payment date without regard to when the payee actually exchanges the stock and receives the dividend.

(b) *Savings bonds.* A person who makes payment on a United States savings bond when the bond is presented for payment shall withhold the tax under section 3451(a) based on the difference between the amount to be paid and the amount paid for the bond. The amount subject to withholding shall not be reduced to take into account—

(1) Amounts previously included in the income of a holder as a result of an election under section 454 to include annually the increase in the redemption price of the bond; or

(2) Amounts accrued prior to transfer of the bond where the bond has been reissued in the name of the person presenting the bond for payment.

With respect to a savings bond that is reissued in another person's name, the amount subject to withholding when the bond is reissued is the amount of interest that has accrued. With respect to a savings bond that is exchanged in a tax-deferred transaction (as described in section 1037), the amount subject to withholding is the amount of cash paid to the holder at the time of the transaction.

(c) *Examples.* The application of the provisions of this section may be illustrated by the following examples:

Example (1). Bank P computes interest on savings account deposits by compounding the interest on a daily basis but credits the amount of interest to the savings account that has accrued during a calendar quarter on the last day of the quarter. P has not made an election under section 3456(b) (relating to annual withholding by financial institutions). P must deduct and withhold the tax imposed by section 3451 at the same time it credits interest to the accounts at the end of each quarter, irrespective of whether interest has actually been posted in depositors' passbooks.

Example (2). Credit Union Q computes dividends on regular share accounts by compounding the dividends on a daily basis. It credits the amount of dividends accrued during a calendar quarter on the last day of the quarter unless the account is closed, in which case it credits accrued dividends on the date the account is closed. Q has not made an election under section 3456(b) (relating to annual withholding by financial institutions). A, an individual who is not exempt from withholding, opens a regular share account at Q on July 1, 1983. Q must deduct and withhold the tax imposed by section 3451 when it credits accrued dividends to the account on September 30, 1983. If A closes the account October 21, 1983, Q must deduct and withhold the tax imposed by section 3451 when it credits accrued dividends to the account on October 21, before A is permited to withdraw the dividends.

Example (3). Corporation R declares a dividend on its stock payable on October 1, 1983. Trust Company S holds stock of R in trust for B, an individual who is not exempt from withholding. S credits the dividend to the account of the trust for B on October 1, even though in the normal course of business S may not receive the money until several days thereafter. S may deduct and withhold the tax imposed by section 3451 when the dividend is credited on October 1, regardless of the fact that the money may not actually be received by S until several days thereafter. S may not delay withholding until later than when S receives the payment. See § 31.3453(b)–1(b).

Example (4). Money Market Fund T declares dividends on its shares daily and credits the dividends to the investor's account on the last day of the month, regardless of whether any shares have been redeemed during the month. T must deduct and withhold the tax imposed by section 3451 on the last day of the month when it credits the investor's account.

Example (5). The facts are the same as in Example (4), except that T credits the dividends to the investor's account daily. T must deduct and withhold the tax imposed by section 3451 daily when it credits the investor's account.

Example (6). On January 1, 1984, C, an individual not exempt from withholding, buys a 10-year bond with attached semiannual interest coupons of $500 that may be cashed on January 1 and July 1 of each year. C sells

the bond on April 1, 1984, to U Bank. Because the $250 of the purchase price attributable to accrued interest is not considered to be paid or credited for purposes of section 3451, U may not withhold any tax under section 3451 from any portion of the purchase price.

Example (7). On April 1, 1984, U Bank sells the bond it purchased in Example (6) to D, an individual not exempt from withholding. D holds the bond and on July 1, 1984, cashes the interest coupon for that date at U. U must withhold $50 of $500 coupon payment as the tax imposed by section 3451.

Example (8). Bank V credits interest to its checking accounts on a quarterly basis. On August 3, 1983, Bank V accepts for payment a check which has been drawn on the account of E. E does not have sufficient funds posted in the account to pay the amount of the check. However, E's account has accrued interest since V's last crediting date which, net of withholding, is sufficient to pay the amount of the check. V pays the check after posting the interest that has accrued since V's last crediting date to E's account. V is required to withhold the tax imposed by section 3451 on August 3, 1983, when it posts the accrued interest to E's account.

Example (9). On June 10, 1943, F purchases a $50 Series E savings bond. The amount paid for the bond is $37.50. F elects under section 454 to include annually the increase in the redemption price of the bond in income. F presents the bond to Bank W to be cashed on July 1, 1983. The amount to be paid on the bond on that date is $204.96. Bank W is required to withhold 16.75 (*i.e.*, 10 percent of the difference between $204.96 and $37.50) on that date without regard to F's election to include annually the increase in the redemption price of the bond in income.

Example (10). On December 1, 1970, G purchases a $500 Series E savings bond. The amount paid for the bond is $375. On August 1, 1985, the bond is reissued by the Bureau of Public Debt by deleting G's name and inserting the name of G's child. At the time of reissue, the redemption value of the bond is $1,015.80. The accrued interest is $640.80 (*i.e.*, $1,015.80—$375). The reissue is a taxable transaction and G must include in income the accrued interest at the time of reissue. On August 1, 1984, the Bureau of Public Debt must withhold $64.08 (*i.e.*, 10 percent of $640.80).

Example (11). Assume the same facts as in Example (10) except that G exchanges the bond for a Series HH savings bond in the amount of $1,000 issued in G's name. The exchange is tax-deferred under section 1037. A check in the amount of $15.80 is delivered to G. The Bureau of the Public Debt must withhold $1.58 (*i.e.*, 10 percent of $15.80) of the interest paid to G on August 1, 1984.

Example (12). Assume the same facts as in example (11) except that the exchange is not a tax-deferred exchange. The Bureau of the Public Debt must withhold $64.08 at the time that it reissues the bond.

(d) *Payment of merchandise in lieu of cash payment of interest.* If a payor provides property to a payee as interest (or in lieu of a cash payment of interest), the amount which is required to be withheld under section 3451 (a) is 10 percent of the fair market value of the property. Such amount may be withheld from an alternative source or account, including the amount of the principal deposited with the payor by the payee, as provided in section 3451(b)(4) and § 31.3451(b)(4)–1.

§ 31.345(b)(2)–1 Withholding where payee is unknown.

(a) *In general.* If a payor is unable to determine the identity of the person to whom a payment of interest, dividends, or patronage dividends is payable or creditable within 60 days after such amounts otherwise would be paid or credited if the payee were known, the payor is required to withhold the tax imposed by section 3451(a) not later than the 60th day after such amounts originally would have been paid or credited as though the payee were known and were an individual who is not an exempt individual. This section shall not apply to persons treated as payors under section 3453(b) or 3453(c) and § 31.3453(b)–1 or § 31.3453(c)–1 who pay interest or dividends exclusively to exempt recipients.

(b) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). Corporation M declares a dividend on its stock payable on September 1, 1983, to shareholders of record as of August 1, 1983. M does not know who holds 50 shares of its stock that are outstanding. M must withhold the tax imposed by section 3451(a) from the dividend declared with respect to those 50 shares on October 31, 1983, if M does not determine the owner of the shares prior to that time.

Example (2) Corporation N has declared a dividend every January 1 and July 1 since 1975. N has not known since January 1, 1977, who holds 75 shares of its stock. On September 15, 1983, A, an individual who is not exempt from withholding, demonstrates that A is the owner of those 75 shares. In paying the accumulated dividends, N may not withhold from the amounts representing dividends from January 1, 1977, through January 1, 1983, because those amounts were paid or credited on each respective date the dividend was payable, which was prior to July 1, 1983 (*i.e.*, the first date on which section 3451(a) requires withholding on dividends). With respect to the amount representing the July 1, 1983, dividend, N is required to withhold the tax imposed by section 3451(a) from the amount not later than August 31, 1983.

Example (3). Bank O holds an interest-bearing account the owner of which O has been unable to locate since January 1, 1983. On September 30, 1983, O makes a payment of interest to the account and elects to withhold the tax under section 3451 from the payment on that date. On November 1, 1983, B, an exempt individual informs O that he is the owner of the account and files an exemption certificate with O. O is not liable to B for the tax withheld under section 3451 from the payment of September 30, 1983.

§ 31.3451(b)(3)–1 Withholding where amount of dividends is unknown.

(a) *Requirement.* If a payor is unable to determine the portion of a distribution which is a dividend, then, except as provided in paragraph (b) of this section, the payor must compute the tax imposed by section 3451(a) on the entire amount of the distribution.

(b) *Estimation of amount of dividend*—(1) *In general.* If a payor is able reasonably to estimate the portion of the distribution which is not a dividend, the tax imposed by section 3451(a) shall not apply to such portion.

(2) *Reasonable estimate.* A payor making a payment all or a portion of which may not be a dividend may use previous experience to estimate the portion of such payment which is not a dividend. An estimate of the portion of a distribution which is not a dividend shall be considered reasonable if the estimate does not exceed the proportion of the distributions made by the payor during the most recent calendar year for which Forms 1099 and 1087 were required to be filed which was not reported by the payor as a dividend.

§ 31.3451(b)(4)–1 Withholding from alternative source.

(a) *In general.* At the election of the payor, the tax which is required to be withheld under section 3451 may be withheld from an account or source maintained by the payor other than the payment giving rise to the liability for such tax. The account or source from which such tax is withheld must be payable to at least one of the persons entitled to receive the payment giving rise to such tax. If the account or source is not payable to, and only to, the same person or persons entitled to receive the payment, then the payor must obtain a written statement from all other persons to whom the account or source is payable authorizing the payor to withhold the tax from such account or source. The payor electing to withhold from an alternative source may determine the account or source from which the tax is to be withheld or, in its discretion, the payor may allow the payee to designate the alternative source. A payee may not require a payor to elect to withhold from an alternative source.

(b) *Example.* The application of the provisions of paragraph (a) of this section may be illustrated by the following example:

Example. A and B, who are not exempt individuals, have a joint checking account at

Bank M. A also has a savings account at Bank M. On December 31, 1984, M credits A's savings account with a $50 interest payment. M may elect to withhold the tax imposed by section 3451(a) on the amount credited to A's savings account from A and B's joint checking account provided that M obtains a written statement from B permitting M to withhold the tax from A and B's joint checking account. Similarly, if the $50 interest payment is made to A and B's joint checking account, M may not withhold the tax imposed by section 3451(a) from A's savings account unless M obtains a written statement from A permitting M to withhold the tax from A's savings account.

(c) *Relationship to annual withholding election.* If a payor elects annual withholding under section 3456(b) and § 31.3456(b)-1 (relating to annual withholding by financial institutions), the payor may also elect, pursuant to paragraph (a) of this section, to provide that the balance required to be maintained pursuant to § 31.3456(b)-1 (c)(1) may be maintained in an account other than the account giving rise to the tax.

§ 31.3451(c)-1 Liability for tax.

(a) *In general.* Every payor making a payment of interest, dividends, or patronage dividends which is subject to the tax imposed by section 3451(a) is liable for the payment of such tax whether or not it is collected from the payee by the payor. If, for example, the payor deducts and withholds less than the correct amount of the tax, he is nevertheless liable for the correct amount of the tax. See, however, section 3456(c) and § 31.3456(c)-1, under which the payor is relieved of liability for such tax in certain circumstances. In no instance shall the payor be liable to any person other than the United States for the amount of any tax which was properly withheld. Until regulations under section 6413 are amended, principles consistent with the rules of that section shall apply, except that a cancelled check or an entry in a statement, a copy of which is provided to the payee by the payor, will suffice for a signed receipt showing the repayment of overcollected tax, if the check or statement contains a specific notation indicating that it is a repayment of overcollected tax.

(b) *Reliance on exemption certificate.* Notwithstanding the provisions of paragraph (a) of this section, a payor is not liable for the tax imposed by section 3451(a) if he fails to withhold the tax because he has reasonably relied on an exemption certificate which is in effect at the time the tax is required to be withheld or on an indication that the payee is an exempt recipient as provided in paragraphs (b) through (p) of § 31.3452(c)-1. See § 31.3452(f)-1(c).

§ 31.3452(a)-1 Exemptions from withholding.

The tax imposed by this subchapter shall not apply to—

(a) Any payment to an exempt individual, as defined in § 31.3452(b)-1,

(b) Any payment to an exempt recipient, as defined in § 31.3452(c)-1,

(c) Any minimal interest payment, as defined in § 31.3452(d)-1, or

(d) Any qualified consumer cooperative payment, as defined in § 31.3452(e)-1.

§ 31.3452(b)-1 Exemption from withholding for exempt individuals.

(a) *In general.* The requirement of withholding under section 3451(a) shall not apply to any payment to an exempt individual. For purposes of this section, the term "exempt individual" means an individual who has a valid exemption certificate in effect at the time the tax under section 3451 would be required to be withheld and who—

(1) Incurred a liability for income tax imposed under subtitle A which did not exceed $600 in the preceding year ($1,000 if a joint return was filed), or

(2) Is age 65 or older at any time prior to the close of the taxable year in which the certificate is filed and incurred a liability for income tax imposed under subtitle A which did not exceed $1,500 in the preceding year ($2,500 if a joint return was filed).

(b) *Income tax liability.* For purposes of determining whether an individual's liability for income tax imposed under subtitle A is less than the applicable amount (*e.g.*, $1,500 in the case of a single individual of age 65), the amount of the tax imposed by subtitle A shall be reduced by the total amount of credits against the tax which are allowable under part IV of subchapter A of chapter 1 of the Code (other than the credits allowable under sections 31, 39, and 43). For purposes of this section, an individual who files a joint return under section 6013 is considered to have incurred a liability for the tax shown on such return. Absent fraud in the preparation or filing of an individual's income tax return, income tax liability shall be deemed to be that shown on the return (or amended return, so called) filed prior to the filing of the exemption certificate.

(c) *Age requirement.* For individuals filing a joint return for thepreceding year, the requirement of subparagraph (2) of paragraph (a) of this section that an individual be age 65 or older shall be treated as met if either spouse is age 65 or older at any time prior to the close of the taxable year in which the certificiate is filed.

(d) *Certain trusts treated as exempt individuals.* If all the beneficiaries of a trust which is required by its terms to distribute all of its income currently are individuals described in paragraph (a) of this section or recipients described in § 31.3452(c)-1 (c) or (d) (relating to organizations exempt from tax under section 501(a) and individual retirement plans), such trust shall be treated as an exempt individual (provided that an exemption certificate is in effect with respect to such trust). The trustee of such a trust may file an exemption certificate on behalf of the trust. In order to allow the trustee of such trust to determine if it meets the requirements of this paragraph, exempt individuals described in paragraph (a) of this section and exempt recipients described in § 31.3452-1 (c) or (d) may deliver exemption certificates to the trustee of such trust. If the trustee elects, the trustee may treat as an exempt recipient any recipient that meets the requirements of § 31.3452(c)-1 (c) or (d) even though such recipient has not filed an exemption certificate with the trustee. The rules relating to delivery and revocation of exemption certificates of § 31.3452f-1 and any applicable penalties for filing a false exemption certificate shall apply to any person delivering an exemption certificate to the trustee of such a trust.

§ 31.3452(c)-1 Exemption from withholding for exempt recipients.

(a) *In ageneral.* The requirement of withholding under section 3451(a) shall not apply to any payment made to an exempt recipient. For purposes of this section, the term "exempt recipient" means any person described in paragraphs (b) through (p) of this section provided that such person has a valid exemption certificate in effect at the time the tax under section 3451 would be required to be withheld unless it is excepted from the requirement of filing an exemption certificate by this section. A payor may, however, in any case require an exempt recipient not otherwise required to file an exemption certificate pursuant to paragraphs (b) through (p) of this section to file an exemption certificate and may treat an exempt recipient who fails to file an exemption certificate as a person who is not exempt.

(b) *Corporation.* A corporation, as defined in section 7701(a)(3) (including an insurance company) whether domestic or foreign, is an exempt recipient for purposes of this section. In addition, the term "corporation"

includes a pool, syndicate, partnership, or unincorporated association composed exclusively of corporations, provided that such person has a valid exemption certificate in effect with the payor at the time the payment is made. Except for the preceding sentence, a payor may treat a payee as a corporation (and, therefore, as an exempt recipient) even though such payee has not filed an exemption certificate with the payor provide that—

(1) The name of the payee contains the term "insurance company", "indemnity company", "reinsurance company", or "assurance company".

(2) The name of the payee contains one of the following unambiguous expressions of corporate status Incorporated, Inc, Corporation, Corp. or P.C., but not Company or Co., or

(3) The payee is known to the payor to be a corporation through a corporate resolution or similar document on file with the payor clearly indicating corporate status.

(c) *Tax exempt organization*—(1) *In general.* Any organization which is exempt from taxation under section 501(a) is an exempt recipient for purposes of this section. A custodial account under section 403(b)(7) shall be considered an exempt recipient under this paragraph. A payor may treat an organization as an exempt recipient under this paragraph even though the organization has not filed an exemption certificate with the payor if the organization's name is listed in the compilation by the Commissioner of organizations for which a deduction for charitable contributions is allowed, if the name of the organization contains an unambiguous indication that it is a tax exempt organization, or if the organization is known to the payor to be a tax exempt organization.

(2) *Examples.* The application of the provisions of this paragraph may be illustrated by the following examples:

Example (1). The following persons maintain accounts at M Bank: N College, O University, P Church. M May treat N, O, and P as exempt recipients even though such persons have not filed an exemption certificate with M.

Example (2). Q is listed in the current edition of Internal Revenue Service Publication 78 as an organization for which deductions are permitted for charitable contributions under section 170(c). Such listing has not been revoked by an announcement published in the Internal Revenue Bulletin. A payor may treat Q as an exempt recipient even though Q has not filed an exemption certificate with the payor.

Example (3). Employer R maintains a section 403(b)(7) custodial account with Regulated Investment Company S on behalf of R's employees. S may treat the account as an exempt recipient without receiving an exemption certificate.

(d) *Individual retirement plan.* An individual retirement plan as defined in section 7701(a)(37) is an exempt recipient for purposes of this section. A payor may treat any such plan of which it is the trustee or custodian as an exempt recipient under this paragraph even though the plan has not filed an exemption certificate with the payor.

(e) *United States.* The United States Government and any wholly-owned agency or instrumentality thereof are exempt recipients for purposes of this section. A payor may treat a person as an exempt recipient under this paragraph even though such person has not filed an exemption certificate with the payor if the name of such person reasonably indicates it is described in this paragraph.

(f) *State*—(1) *In general.* A State, the District of Columbia, a possession of the United States, a political subdivision of any of the foregoing, a wholly-owned agency or instrumentality of any one or more of the foregoing, and a pool or partnership composed exclusively of any of the foregoing are exempt recipients for purposes of this section. A payor may treat a person as an exempt recipient under this paragraph even though such person has not filed an exemption certificate with the payor if the name of such person reasonably indicates it is described in this paragraph or if such person is known generally in the community to be a State, the District of Columbia, a possession of the United States, or a political subdivision or a wholly-owned agency or instrumentality of any one or more of the foregoing.

(2) *Example.* The application of the provisions of this paragraph may be illustrated by the following example:

Example. The following persons maintain an account at R bank: Town of S and County T. R may treat S and T as exempt recipients even though such persons have not filed an exemption certificate with R.

(g) *Foreign government*—(1) *In general.* A foreign government, a political subdivision of a foreign government, and any wholly-owned agency or instrumentality of either of the foregoing are exempt recipients for purposes of this section. A payor may treat a foreign government or a political subdivision thereof as an exempt recipient under this paragraph even though such government or political subdivision has not filed an exemption certificate with the payor provided that its name reasonably indicates that it is a foreign government or political subdivision of a foreign government or provided that it is known to the payor to be a foreign government or a political subdivision thereof.

(2) *Example.* The application of the provisions of this paragraph may be illustrated by the following example:

Example. The Government of V maintains an account at U bank. U may treat V as an exempt recipient even though V has not filed an exemption certificate with U.

(h) *International organization.* An international organization and any wholly-owned agency or instrumentality thereof are exempt recipients for purposes of this section. The term "international organization" shall have the meaning ascribed to it in section 7701(a)(18) and includes the following organizations:

(1) African Development Fund,

(2) Asian Development Bank,

(3) Caribbean Organization,

(4) Coffee Study Group,

(5) Customs Cooperation Council,

(6) European Space Research Organization,

(7) Food and Agriculture Organization,

(8) Great Lakes Fishery Commission,

(9) Inter-American Defense Board,

(10) Inter-American Development Bank,

(11) Inter-American Institute of Agricultural Sciences,

(12) Inter-American Statistical Institute,

(13) Inter-American Tropical Tuna Commission,

(14) Intergovernmental Committee for European Migration,

(15) Intergovernmental Maritime Consultative Organization,

(16) International Atomic Energy Agency,

(17) International Bank for Reconstruction and Development (World Bank),

(18) International Centre for Settlement of Investment Disputes,

(19) International Civil Aviation Organization,

(20) International Coffee Organization,

(21) International Cotton Advisory Committee,

(22) International Cotton Institute,

(23) International Development Association,

(24) International Fertilizer Development Center,

(25) International Finance Corporation,

(26) International Food Policy Research Institute,

(27) International Hydrographic Bureau,

(28) International Joint Commission—United States and Canada,
(29) International Labor Organization,
(30) International Maritime Satellite Organization,
(31) International Monetary Fund,
(32) International Pacific Halibut Commission,
(33) International Refugee Organization,
(34) International Secretariat for Volunteer Service,
(35) International Telecommunication Union,
(36) International Telecommunications Satellite Organization,
(37) International Wheat Advisory Committee (International Wheat Council),
(38) Lake Ontario Claims Tribunal,
(39) Multinational Force and Observers,
(40) North Atlantic Treaty Organization,
(41) Organization for Economic Cooperation and Development,
(42) Organization of African Unity,
(43) Organization of American States (including Pan American Union),
(44) Pan American Health Organization,
(45) South Pacific Commission,
(46) Southeast Asia Treaty Organization,
(47) United International Bureaux for the Protection on Intellectual Property,
(48) United Nations,
(49) United Nations Educational, Scientific, and Cultural Organization,
(50) Universal Postal Union,
(51) World Health Organization,
(52) World Intellectual Property Organization, and
(53) World Meteorological Organization.

A payor may treat any of the foregoing and any other organization designated as an international organization by executive order (pursuant to 22 U.S.C. 288 to 288f) as an exempt recipient even though such person has not filed an exemption certificate with the payor.

(i) *Foreign central bank issue.* A foreign central bank of issue is an exempt recipient for purposes of this section. A foreign central bank of issue is a bank which is by law or government sanction the principal authority, other than the government itself, issuing instruments intended to circulate as currency. See § 1.895-1(b)(1). A payor may treat a person as a foreign central bank of issue (and, therefore, as an exempt recipient) even though such person has not filed an exemption certificate with the payor provided that such person is known generally in the financial community as a foreign central bank of issue.

(j) *Securities or commodities dealer*—(1) *In general.* A dealer in securities or commodities who is required to register as such under the laws of the United States or a State is an exempt recipient for purposes of this section. A payor may treat a dealer described in this subparagraph as an exempt recipient under this paragraph even though such person has not filed an exemption certificate with the payor if the person is known generally in the investment community to be a dealer meeting the requirements set forth in this paragraph.

(2) *Futures commission merchant.* A futures commission merchant registered as such with the Commodity Futures Trading Commission is an exempt recipient. A payor may treat a person as an exempt recipient under this paragraph even though such person has not filed an exemption certificate with the payor if the person is known generally in the investment community to be a futures commission merchant.

(3) *Examples.* The application of the provisions of this paragraph may be illustrated by the following examples:

Example (1). X advertises that purchases of securities may be made through it and is known generally in the investment community as a registered broker-dealer. A payor may treat X as an exempt recipient even though X has not filed an exemption certificate with such payor.

Example (2). Z is listed as a member firm in the most recent publication of members of the National Association of Securities Dealers, Inc. A payor may rely on such listing in treating Z as an exempt recipient even though Z has not filed an exemption certificate with such payor.

(k) *Real estate investment trust.* A real estate investment trust, as defined in section 856 and § 1.856-1, is an exempt recipient for purposes of this section. A payor may treat a person as a real estate investment trust (and, therefore, as an exempt recipient) even though such person has not filed an exemption certificate with the payor provided that such person is known generally in the investment community as a real estate investment trust.

(l) *Entity registered under the Investment Company Act of 1940.* An entity registered at all times during the taxable year under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80a-52), is an exempt recipient for purposes of this section. An entity which is created during the taxable year will be treated as meeting the registration requirement of the preceding sentence provided that such entity is so registered at all times during the taxable year for which such entity is in existence. A payor may treat as an exempt recipient an entity which is known generally in the investment community to meet the requirements of the preceding sentence even though such entity has not filed an exemption certificate with the payor.

(m) *Common trust fund.* A common trust fund, as defined in section 584(a), is an exempt recipient for purposes of this section. A bank that maintains a common trust fund under section 584(a) may treat the fund as an exempt recipient even though such fund has not filed an exemption certificate with the bank.

(n) *Middleman.* Any person acting as a middleman, including a nominee or custodian, which is treated as a payor under § 31.3453(b)-1 is an exempt recipient for purposes of this section, provided that such person has a valid exemption certificate in effect with the payor at the time the tax under section 3451 is required to be withheld, is known generally in the investment community as a nominee, or is listed in the most recent publication of the American Society of Corporate Secretaries, Inc. Nominee List. If a person acting as a middleman is an exempt recipient under another paragraph of this section and not required to file an exemption certificate with the payor under that paragraph, a payor may treat such person as an exempt recipient even though such person has not filed an exemption certificate with the payor.

(o) *Financial institution.* A financial institution such as a bank, a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or other similar organization is an exempt recipient for purposes of this section. A payor may treat any person the name of which reasonably indicates it is described in the preceding sentence as an exempt recipient even though such person has not filed an exemption certificate with the payor.

(p) *Trust.* A trust which is exempt from tax under section 664(c) (*i.e.*, a charitable remainder annuity trust or a charitable remainder unitrust) or is described in section 4947(a)(1) (relating to certain charitable trusts) is an exempt recipient for purposes of this section. A payor which is a trustee of the trust may treat the trust as an exempt recipient even though the trust has not filed an exemption certificate with the payor.

§ 31.3452(d)-1 Exemption from withholding for minimal interest payments.

(a) *In general.* The requirement of withholding under section 3451 shall not

apply to a minimal interest payment. A minimal interest payment is any payment (as determined under § 31.3451(b)(1)–1) of interest (as defined in § 31.3454(a)–1) with respect to which the payor has made an election under section 3452(d)(3) and this section, which does not exceed $150, and which is an annualized amount that does not exceed $150 as computed under paragraph (c)(1) of this section. A payment of interest of over $150 is always subject to withholding regardless of the period for which the interest is paid. Therefore, the annualization computation of paragraph (c) need not be performed for any interest payment that exceeds $150 or for any interest that is paid as part of 1 transaction in which the total interest paid exceeds $150; withholding is required on such payments unless they are made to an exempt individual or exempt recipient. In addition, the annualization computation should not be performed for any interest payment paid with respect to a period of 1 year or more, regardless of the amount of the payment.

(b) *Rules for making the election.* Any payor may elect the application of this section with respect to any minimal interest payment made by such payor. Such election is made with respect to a particular interest payment by complying with all of the requirements of this section. The election need not be made consistently, but may be made on a payment-by-payment basis.

(c) *Minimal interest payment*–(1) *Annualization.* A payment of interest with respect to a period of less than 1 year shall be annualized under the method described in paragraph (c)(1)(i) of this section unless the rule under paragraph (c)(1)(ii) of this section is used. A payor is not required to annualize an amount paid which is original issue discount on an obligation unless such amount is paid for a period which is less than 1 year.

(i) Calculate what the amount of the payment would be if it were determined for a 1-year period (instead of the period for which it actually is determined). This is done by dividing the payment by the number of days in the period for which it is determined and then multiplying that result by the number of days in the year. For purposes of this computation, the payor may assume that February always consists of 28 days and that the year consists of 365 days or that each month always consists of 30 days and that the year consists of 360 days. For amounts which are deposited with a payor in a new account or certificate between the dates on which the payor customarily pays or credits interest, the payor may assume that the period for which the interest is paid or credited is the payor's customary period for paying or crediting interest.

(ii) A payor paying interest on the presentment or demand of an instrument may, in lieu of the calculation under paragraph (c)(1)(i) of this section, assume that interest paid with respect to a period of less than 1 year is paid with respect to a 6-month period.

(2) *Sum of annualized short-term interest payments and long-term interest payments.* To determine whether a payment of interest is a minimal interest payment, add together for all aggregable payments (i) the result of paragraph (c)(1) of this section with respect to payments of interest for periods of less than 1 year and (ii) all payments of interest that are paid for periods of 1 year or more. If this total does not exceed $150, it is a minimal interest payment and withholding is not required. If this total is more than $150, withholding is required, even if the amount of interest actually paid does not exceed $150. Until the Commissioner determines that additional aggregation will be required, "aggregable payments" means all interest paid in 1 transaction by the payor to the payee subject to tax under section 3451 that is paid on presentment or demand of an instrument such as Series E and EE Savings Bonds, interest coupons detached from debt obligations, and short-term discount obligations issued without coupons). A payor may deem any payments to be aggregable that are not aggregable under the preceding sentence.

(3) *Examples.* The application of the provisions of this paragraph (c) may be illustrated by the following examples:

Example (1). A, an individual who is not exempt from withholding, has maintained a savings account since July 1, 1983, at M Bank, which credits interest on the account at the end of each calendar quarter. M credits $45 of interest to A's account on September 30 and $35 of interest to A's account on December 31. The amount credited on September 30 exceeds $150 determined for a 1-year period, because $45 divided by 90 multiplied by 360 is $180, which exceeds $150. Therefore, M must withhold $4.50 ($45 multiplied by 10 percent) from the amount credited September 30. The amount credited on December 31 does not exceed $150 determined for a 1-year period (because $35 divided by 90 multiplied by 360 is $140), even though, if added to the amount credited on September 30, the aggregate ($80) would exceed $150 determined for a 1-year period.

Example (2). B, an individual who is not exempt from withholding, has maintained a savings account since January 1, 1984, at N Bank, which credits interest on the account at the end of each calendar quarter. N credits $40 of interest to B's account on March 31, $40 on June 30, $40 on September 30, and $35 on December 31. The amounts credited on March 31, June 30, and September 30 each exceed $150 determined for a 1-year period. The amount credited on December 31 does not exceed $150 determined for a 1-year period, even though, if added to the amounts credited on March 31, June 30, and September 30, the aggregate ($155) would exceed $150.

Example (3). C, an individual who is not exempt from withholding, presents ten Series EE Savings Bonds at P Bank on December 31, 1984, and requests that they be cashed. All ten bonds were purchased on January 2, 1984, and C will be paid $20 of interest on each bond. P must aggregate the ten interest payments of $20 each. Since the total amount of interest is $200, it is not a minimal interest payment. Therefore, P must withhold $20 of tax as required by section 3451.

Example (4). D, an individual who is not exempt from withholding, presents a Series EE Savings Bond at Q Bank on August 17, 1985, and requests that it be cashed. The bond was purchased on January 31, 1985, and D will be paid $87 of interest on the bond. Utilizing the rule of paragraph (c)(1)(i) of this section, the interest payment on the bond would be considered to be $158.18 (obtained by dividing $87 by 198 (the number of days in the period for which the interest is paid) and multiplying that amount by 360). Since this amount exceeds $150, it is not a minimal interest payment and Q must withhold $8.70 (10 percent of the actual interest payment of $87). Alternatively, under the rule of paragraph (c)(1)(ii) of this section, since the interest payment exceeds $75, the total amount of interest would be considered to exceed $150 and Q must withhold of $8.70.

Example (5). E, an individual who is not exempt from withholding, presents two Series EE Savings Bonds at R Bank on June 30, 1986, and requests that they be cashed. Both bonds were purchased by E on January 2, 1985, and E will be paid $85 of interest on each bond. R must aggregate the two interest payments of $85 each. Since the total amount of interest is $170, R must withhold $17 (10 percent of the actual interest payment of $170).

Example (6). The facts are the same as in Example (5) except that E presents one of the Series EE Savings Bonds and one semiannual interest coupon for cashing. E will be paid $50 of interest with respect to the coupon, which, utilizing the rule of paragraph (c)(1)(ii) of this section, equals $100 on an annualized basis. R must aggregate the $100 annualized interest payment on the coupon and the $85 interest payment on the savings bond to determine whether it is making a minimal interest payment. Since this amount exceeds $150, R must withhold $13.50 (10 percent of the actual interest payment of $135).

Example (7). F, an individual who is not exempt from withholding, opens a new savings account at S Bank on November 2, 1985. It is S's practice to credit interest on accounts of this type at the end of each calendar quarter. On December 31, 1985, S credits $23 of interest to F's account. S may annualize the payment by dividing $23 by 59 (the number of days in the period for which the interest actually is paid) and multiplying that amount by 360. Alternatively, S may

treat the payment as being paid for the entire quarter utilizing the rule provided in the last sentence of paragraph (c)(1)(i) of this section. Under that rule, the payment is $92 on an annualized basis (obtained by dividing $23 by 90 (30 x 3) and multiplying that amount by 360). Thus it is a minimal interest payment.

Example (8). G, an individual who is not exempt from withholding, presents a long-term original issue discount obigation in bearer form which has matured and one semiannual interest coupon to T Bank on July 3, 1984, and requests that they be cashed. The original issue discount obligation was issued with no stated interest payable. Under section 1232A, $35 of original issue discount with respect to the bond is includible in a holder's income for calendar year 1984 and subject to withholding under § 31.3455(b)-1 (c)(2)(i). G will be paid $50 in interest with respect to the coupon which T annualizes (utilizing the rule of paragraph (c)(1)(ii) of this section) to $100. Since the original issue discount is paid for a period which is less than 1 year, T annualizes the $35 (utilizing the rule of paragraph (c)(1)(ii)) of this section to $70. T must aggregate the $100 interest payment with the $70 original issue discount to determine if it is making a minimal interest payment. Since this amount exceeds $150, T must withhold $8.50 (*i.e.*, 10 percent of the sum of the original issue discount and the actual interest payment made).

§ 31.3452(e)-1 Qualified consumer cooperative payment

The requirement of withholding under section 3451 shall not apply to any qualified consumer cooperative payment. The term "qualified consumer cooperative payment" means a payment by a cooperative with respect to which an exemption from the reporting requirements of section 6044(a) is in effect pursuant to section 6044(c) and § 1.6044-4. If a cooperative ceases to be exempt from such reporting requirements as provided in § 1.6044-4(a)(3) effective for payments made after the close of a particular taxable year, such payments shall not be treated as qualified consumer cooperative payments.

§ 31.3452(f)-1 Exemption certificates.

(a) *In general.* An exempt individual or an exempt recipient may deliver an exemption certificate to a payor at any time. If a payment is made or credited to more than one person (*e.g.*, to a joint account at a bank), the payor may treat the payment as one made to an exempt individual or exempt recipient provided that the payor receives an exemption certificate from the person whose identifying number is required to be included by the payor on an information return with respect to the payment.

(b) *Form of exemption certificates.*—(1) *In general.* Form W-6 is the form prescribed under section 3452(f) for the exemption certificate described in section 3452(b)(1)(B) for exempt individuals, except that Form W-7 is the form prescribed for trusts described in section 3452(b)(4) (relating to special rule for certain trusts distributing currently). Form W-7 is also the form prescribed under section 3452(f) for the exemption certificate described in section 3452(c)(1)(A) for exempt recipients. An exemption certificate shall be prepared in accordance with the instructions applicable thereto, and shall set forth fully and clearly the data therein called for. Payees must include on all exemption certificates their taxpayer identification numbers (which, in the case of an individual, is the individual's social security account number). See section 6109 (relating to identifying numbers) and the regulations thereunder for the procedures for obtaining and the rules pertaining to taxpayer identification numbers. Blank copies of Forms W-6 and W-7 will be supplied payors and payees upon request to the district director. A payor may require a separate exemption certificate for each account maintained by an exempt individual or exempt recipient. See § 31.6001-1 (relating to records in general) for the requirements relating to retention of exemption certificates and revocations of exemption certificates.

(2) *Forms prepared by payors.* Payors may prepare and use a form which contains provisions which are substantially similar to those of the prescribed form if the payor complies with all revenue procedures relating to substitute Forms W-6 and W-7 in effect at that time. A payor may refuse to accept forms (including the offical forms) that the payor itself did not prepare in accordance with the preceding sentence only if the payor promptly provides to the payee an acceptable form. A payor shall be considered to have promptly provided an acceptable form only if either—

(i) Within 5 business days (but in any event not earlier than March 1, 1983, unless the payor chooses to do so earlier) of receipt of an unacceptable form which, under paragraph (e) of this section, would take effect the 45th day after the day on which the payor receives the certificate, the payor provides to the payee an acceptable form, or

(ii) Immediately upon receipt of an unacceptable form which, under paragraph (e) of this section, would take effect upon its receipt by the payor, the payor provides to the payee an acceptable form. For purposes of this paragraph (b)(2), an acceptable form must contain a notice that the payor has refused to accept the unacceptable form submitted by the payee and that the payee must submit the acceptable form provided by the payor in order for the payee to be exempt from withholding. A payor may not refuse to accept a written determination by the Commissioner furnished under paragraph (f)(2) of this section. If the payor requires the payee to furnish a form for each account of the payee, the peyor is not required to furnish an acceptable form until the payee furnishes the payor with the payee's account numbers.

(3) *Special rule.* A middleman may act (if requested to do so by the payee) as the payee's agent for purposes of furnishing an exemption certificate. Thus, the middleman may either furnish a copy of an exemption certificate to a payor (such as the transfer agent in the case of dividends paid on stock) or may certify that the payee is being treated by the middleman as either an exempt individual or exempt recipient. If the middleman certifies, the middleman is liable for the payment of the tax under section 3451 as if it were the payor required to withhold the tax if the payee is not an exempt individual or an exempt recipient. The payor may refuse to accept any copy furnished or certification presented to it in accordance with this subparagraph. Therefore, the payor may request an exemption certificate directly from the payee. A copy furnished or certification presented shall be treated as an exemption certificate for purposes of this section. Thus, the payee is required to revoke the exemption with the payor as provided in § 31.3452(f)-1(g).

(c) *Reasonable reliance on certificate.* A payor shall not be liable for the tax imposed under section 3451 if the payor's failure to deduct and withhold the tax is due to reasonable reliance on an exemption certificate which is in effect with respect to the payee at the time such tax is required to be deducted and withheld under section 3451. A certificate may not be reasonably relied upon if it is an invalid exemption certificate described in paragraph (d) of this section. A payor is not required to ascertain that the statements made on an exemption certificate are true. The rules of section 6413 (relating to special rules applicable to certain taxes under subtitle C) and the regulations thereunder relating to adjustments for and overpayments of withholding from wages in excess of the correct amount due to an error by the payor shall be applicable to withholding under section 3451. A payor is not required to make an adjustment due to an error by a payee.

(d) *Invalid exemption certificates.* Any alteration of an exemption

certificate shall cause such certificate to be invalid. An alteration of an exemption certificate is any material defacing such certificate or any deletion of the language of the certificate (including the jurat or other similar provisions of such certificate by which the exempt individual or exempt recipient certifies or affirms the correctness of the completed certificate). An exemption certificate will also be invalid if the exempt individual or exempt recipient expressly indicates that the certificate is false by an oral or written statement to the payor. An exemption certificate will also be invalid if the exempt individual's or exempt recipient's taxpayer identification number is not shown on the certificate. See section 6109 (relating to identifying numbers) and the regulations thereunder for the procedures for obtaining and the rules pertaining to taxpayer identification numbers. For purposes of this paragraph, the term "payor" includes an individual authorized by the payor to receive exemption certificates. If the payor receives an invalid exemption certificate, he shall consider it a nullity for purposes of withholding.

(e) *When exemption certificate takes effect.* Except as otherwise provided in this paragraph (e), an exemption certificate furnished the payor shall take effect on the 45th day after the day on which the payor receives the certificate. The payor may treat a certificate as effective with respect to any payment of interest, dividends, or patronage dividends made on or after the date such certificate is furnished and before the date prescribed in the preceding sentence. In the case of payments subject to tax under section 3451 that are paid on presentment or demand (such as interest on Series E and EE Savings Bonds, interest coupons detached from debt obligations, and short-term discount obligations issued without coupons), an exemption certificate shall take effect upon its receipt by the payor. In the case of dividends on stock or interest paid on debt obligations in registered form, the payor may, for purposes of this section only, consider the record date (instead of the payment date) to be the date by which an exemption certificate must be effective in order that there be no withholding. Thus, for example a payor whose record date is 20 days before the payment date may require that an exemption certificate be provided by a payee 65 days before the payment date in order for the exemption certificate to be effective with respect to payments made on the payment date.

(f) *Period during which exemption certificate remains in effect.* An exemption certificate shall be effective and a payor may relay upon such certificate until the 45th day after the date on which either—

(1) It is revoked by the exempt individual or exempt recipient, or

(2) The payor receives a written determination by the Commissioner that the person described in the certificate is not an exempt individual or exempt recipient.

The payor may cease to treat a certificate as effective with respect to any payment of interest, dividends, or patronage dividends made on or after the date of the event described in paragraphs (f) (1) or (2) of this section and before the 45th day following such event. If the exempt individual or exempt recipient terminates its relationship with the payor so that, unless the exempt individual or exempt recipient takes action to reinstate the relationship, the payor will not make future payments of interest, dividends, or patronage dividends to the individual or recipient, the payor may, in its discretion, continue to treat such certificate as effective. If the exempt individual or exempt recipient takes action to reinstate the relationship and the payor is still treating the certificate as effective, the payor must so advise the individual or recipient within 45 days after the date of such reinstatement.

(g) *Revocation of exemption certificate.* Any person who ceases to be an exempt individual or an exempt recipient shall, no later than 10 days after such cessation (which, in the case of individuals, shall be considered to be the due date (without taking extensions into account) of the income tax return on which the individual reports income tax liability in excess of the applicable limits of section 3452(b) and § 31.3452 (b)–1), revoke all exemption certificates previously filed by such person (including any certificate under § 31.3452 (f)–1(b)(3) unless it reasonably appears that such person will not thereafter receive a payment of interest, dividends, or patronage dividends from the payor with whom such certificate was filed. If a payor treats a person as an exempt recipient without requiring the exempt recipient to file an exemption certificate, the person formerly qualifying as an exempt recipient is, nevertheless, required to notify the payor when it ceases to be an exempt recipient unless it reasonably appears that the person will not thereafter receive a payment of interest, dividends, or patronage dividends from the payor. A person who receives a notice under the last sentence of paragraph (f) upon reinstating a relationship with the payor must revoke the exemption certificate within 10 days of receipt of the notice if the person is no longer an exempt individual or recipient. An exemption certificate is revoked by delivering to the payor an exemption certificate that states that the previous certificate is revoked. A person notifies a payor that it no longer qualifies as an exempt recipient by delivering to the payor a written statement to that effect. See section 7205 (relating to fraudulent withholding exemption certificate of failure to supply information) for the penalty for failure to revoke an exemption certificate if required to do so.

§ 31.3453(a)–1 Definition of payor.

The term "payor" means any person making or crediting a payment of interest, dividends, or patronage dividends, including any person treated as a payor under § 31.3453(b)–1 or § 31.3455(c)–1.

§ 31.3453(b)–1 Middlemen treated as payors.

(a) *In general.* Any person who receives or collects a payment of interest, dividends, or patronage dividends on behalf of or for the account of another person shall be treated as the payor with respect to such payment. Such persons include—

(1) A custodian of a payee's account, such as a bank acting as custodian of a trust,

(2) A nominee (including an individual or a partnership when acting as a nominee),

(3) A broker holding stock for a customer in "street name" or otherwise.

(4) A bank or broker that collects or makes payment on an interest coupon for a customer (regardless of whether the bank purchases the coupon outright, accepts the coupon for collection (acting as agent for the payee), or otherwise deals with such coupon),

(5) A bank or broker that makes payment on a U.S. Savings Bond or a short-term discount obligation (such as a Treasury bill or commercial paper),

(6) A corporate trustee of a non-exempt trust where the trust is the payee,

(7) A common trust fund, and

(8) Any S corporation that receives any payment of interest, dividends, or patronage dividends.

An individual acting as a custodian of a minor's account is not a middleman. See § 31.3453 (d)–1 for the duties of persons treated as payors under this section.

(b) *Time of withholding.*—(1) *General rule.* Any person treated as a payor under paragraph (a) of this section (a "middleman") shall deduct and withhold the tax imposed by section 3451 at the time such interest, dividends, or patronage dividends are received by or credited to the middleman. However, if the middleman makes or credits the payment to the payee prior to the middleman's receipt of a corresponding payment, the middleman may deduct and withhold the tax at the time such payment is made or credited to the payee.

(2) *Special rule for common trust funds.* A common trust fund may deduct and withhold the tax at the time provided in paragraph (b)(1) of this section, on the date on which the assets of the common trust fund are valued, or at the time the common trust fund pays or credits interest, dividends, or patronage dividends to the beneficiary of the common trust fund.

(c) *Examples.* The application of the provisions of this section may be illustrated by the following examples:

Example (1). A, an individual, is the trustee of Trust M, which is not an exempt individual or exempt recipient. A is not a middleman. The corpus of the trust is stock of Corporation N. On August 31, 1983, N pays a dividend to M and withholds 10 percent of the payment. On September 30, 1983, A makes a distribution of M's income to the beneficiaries of M. A is not required to withhold the tax under section 3451(a) on August 31, 1983, in connection with the dividend paid by N. In addition, M is not required to withhold the tax under section 3451 (a) on September 30, 1983, when A distributes M's income because the payment does not constitute a payment of interest, dividends, or patronage dividends for purposes of subchapter B of chapter 24 of the Code.

Example (2). O, a partnership which is not a middleman, holds bonds of Corporation P. On July 1, 1984, P makes a payment of stated interest on the bonds held by O and withholds 10 percent of the payment. O makes a distribution of income to its partners on December 31, 1984. O is not required to withhold the tax under section 3451(a) on July 1, 1984, when it receives the payment of interest from P. In addition, O is not required to withhold the tax under section 3451(a) on December 31, 1984, when O distributes income to its partners because the payment does not constitute a payment of interest, dividends, or patronage dividends for purposes of subchapter B of chapter 24 of the Code.

Example (3). On February 28, 1985, Corporation R declares a dividend on its stock payable on April 1, 1985, to holders of record as of March 3, 1985. On March 1, 1985, Broker Q sells stock in Corporation R which it held in "street name" on behalf of B to Broker S. S purchases the stock on behalf of C, an individual who is not exempt. R's stock transfer agent does not record the transfer until March 4, 1985. Accordingly, on April 1, 1985, R's paying agent pays the dividend declared by R to Q. R does not withhold the tax under section 3451(a) since Q is an exempt recipient. Since Q is not able to identify immediately the owner of the dividend, it places it in a suspense account. On the same date, S credits C's account with the amount of the dividend payable by R on that date. On April 30, 1985, S makes a claim on Q for the amount of the dividend Q received on R's stock and Q pays the dividend to S. Q does not withhold the tax under section 3451(a) since S is an exempt recipient. S is required to deduct and withhold the tax under section 3451(a) when it receives the dividend from Q on April 30, 1984, or, in its discretion, at the time it credits the dividend to C's account on April 1, 1984.

Example (4). U is the trustee of Trust V, a charitable remainder annuity trust which is an exempt recipient under section 3452 (c)(2)(L) and § 31.3452 (c)–1 (p). U is not a middleman. On June 1, 1984, Corporation W pays V a dividend on the stock of W held by V. On June 15, 1984, Corporation X makes a payment of stated interest on a bond held by V to U, as trustee of V. Since V is an exempt recipient, neither W nor X withholds the tax under section 3451(a) when it makes payments to V or to U as trustee of V. On July 1, 1984, U makes a semiannual distribution of V's income to D, V's income beneficiary who is not an exempt individual. U is not required to withhold the tax under section 3451(a) on June 1, 1984, or on June 15, 1984, when V receives the payments of dividends and interest, or on July 1, 1984, when U distributes income of V since the payment does not constitute a payment of interest, dividends, or patronage dividends for purposes of subchapter B of chapter 24 of the Code.

Example (5). Corporation Y is the trustee of Trust Z, which is not an exempt individual or exempt recipient. On September 30, 1983, Corporation MM pays a dividend on stock held by Z to Corporation Y, as trustee of Z. On the same date, Corporation NN makes a payment of stated interest on bonds held by Z to Z. Since Y is the corporate trustee of a trust, Y is a middleman with respect to the payments to the trust and MM and NN do not withhold the tax under section 3451(a). Y must withhold the tax under section 3451(a) on September 30, 1983, from the payments received on that date since Y is a middleman required to withhold.

§ 31.3453(c)–1 Agents, fiduciaries, and other persons treated as payors.

(a) *In general.* Any person acting on behalf of a payor in making or crediting a payment of interest, dividends, or patronage dividends shall be treated as the payor of such payment. This includes a fiduciary (as defined in section 7701(a)(6)) or agent of the payor which is acting on behalf of the payor in making the payment, such as a bank that acts as a paying agent in making a payment of dividends on behalf of a corporation. See § 31.3453(d)–1 for the duties of persons treated as payors under this section. A payment by a payor to a person acting on behalf of the payor with respect to the payment shall not be considered a payment of interest, dividends, or patronage dividends to the person so acting.

(b) *Relationship to middleman rules.* A person acting in multiple capacities with respect to a payment may be treated as a payor under this section and under § 31.3453(b)–1 with respect to the payment. In such a case, such person shall treat such payment, when made, as though it were paid to another person, and when received, as though received from another person.

§ 31.3453(d)–1 Duties of persons treated as payors.

Any person treated as a payor under § 31.3453(b)–1 or § 31.3453(c)–1 shall deduct and withhold the tax imposed by section 3451 (except with respect to amounts paid or credited to exempt recipients or exempt individuals), deposit such tax in the manner required by section 6302(c) and § 31.6302(c)–5, and comply with the requirements of sections 6042, 6044, and 6049 (relating, respectively, to information reporting on dividends, patronage dividends, and interest) and the regulations thereunder. Such person shall be liable for the tax whether or not it is withheld, as provided in § 31.3451(c)–1, and shall be liable for any penalties which may be imposed on a payor for failure to withhold, report, or deposit the tax, and for interest on the amount of the tax. Such person may receive an exemption certificate under section 3452(f) and may rely on it as provided in § 31.3452(f)–1. Similarly, such persons may treat certain persons as exempt recipients without receiving an exemption certificate from such other persons in the manner provided in § 31.3452(c)–1. Filing an exemption certificate with a person who is treated as a payor under § 31.3453(b)–1 or § 31.3453(c)–1 will be treated as a filing with a payor for purposes of the civil and criminal penalty provisions of sections 6682 and 7205. See § 31.3453(e)–1 for relief from double withholding.

§ 31.3453(e)–1 Relief from double withholding.

(a) *In general.* Any person treated as a payor under § 31.3453(b)–1 or § 31.3453(c)–1 may file an exemption certificate with a payor from whom such person may receive payment of interest, dividends, or patronage dividends. Any person who is an exempt recipient other than as a middleman shall not be required to file an exemption certificate by reason of this section.

(b) *Receipt of payment from which tax has been withheld by person treated*

as a payor. If a person treated as a payor under § 31.3453(b)-1 (a receiving payor) receives a payment of interest, dividends, or patronage dividends from which the payor (including a middleman or other person treated as a payor) making such payment (the upstream payor) has withheld the tax imposed by section 3451 (a), then the receiving payor may claim a credit for the amount of tax withheld by the upstream payor against the deposit of any tax imposed by section 3151 (a) which the receiving payor is required to withhold and deposit. The receiving payor shall make or credit the payment to its payee as though it had received the full amount of the payment from the upstream payor, shall withhold the tax under section 3451 (a) if its payee is not an exempt individual or exempt recipient, or make or credit the full amount of the payment to the payee if the payee is exempt.

(c) *Example.* The application of the provisions of this section may be illustrated by the following example:

Example. Broker M holds stock in N Corporation in M's name for A, an exempt individual. M has not filed an exemption certificate with N and N does not treat M as an exempt recipient. Therefore, N withholds 10 percent of its dividend payment to M on the stock held by M for A. As authorized by § 31.3453(e)-1 (b), M credits the amount of tax withheld by N against the tax which M is required to withhold and deposit under section 3451 (a). Since A is an exempt individual, M credits the full amount of the payment to A.

§ 31.3454(a)-1 Definition of interest.

(a) *In general.* Except as provided in paragraph (b) of this section, the term "interest" means—

(1) Interest on an obligation issued "in registered form" (as defined in § 5f.103-1(c)

(2) Interest on an obligation of a type offered to the public. Principles consistent with § 5f.163-1 shall apply in determining whether an obligation is "of a type offered to the public".

(3) Interest on deposits (including deposits evidenced by negotiable time certificates of deposit issued in any amount) with persons carrying on the banking business. The term "interest" includes amounts paid with respect to repurchase agreements, banker's acceptances, as well as property which the payee receives from the payor as interest (or in lieu of a cash payment of interest). The term "interest" does not include amounts paid or credited to a mortgate escrow account (but see § 1.6049-5 (a)(2) with respect to reporting requirements for such amounts).

(4) Amounts, whether or not designated as interest, paid or credited by mutual savings banks, savings and loan associations, building and loan associations, cooperative banks, homestead associations, credit unions, industrial loan associations or banks, or similar organizations, in respect of deposits, face amount certificates, investment certificates, or withdrawable or repurchasable shares. Even though amounts paid or credited by such organizations with respect to deposits may be designated as "dividends", such amounts are included in the definition of interest for purposes of this section. The term "interest" includes amounts paid with respect to repurchase agreements and property which the payee receives from the payor as interest (or in lieu of a cash payment of interest). The term "interest" does not include payments to a mortgage escrow account (but see § 1.6049-5 (a) (3) with respect to reporting requirements for such amounts).

(5) Interest on amounts held by insurance companies under an agreement to pay interest thereon. Any increment in value of "advance premiums", "prepaid premiums", or "premium deposit funds" which is applied to the payment of premiums due on insurance policies, or made available for withdrawal by the policyholder, is not interest for purposes of this section. (But see § 1.6049-5 (a) (4) relating to information reporting requirements with respect to such interest.) Interest that an insurance company pays pursuant to an agreement with the policy holder to a beneficiary because the payment due has been delayed is interest for purposes of this section. The term "interest" also includes interest paid by insurance companies with respect to policy "dividend" accumulations (see sections 61 and 451 and the regulations thereunder for rules as to when such interest is considered paid) and interest paid with respect to the proceeds of insurance policies left on deposit with the insurer. The so-called "interest element" in the case of annuity or installment payments under life insurance or endowment contracts does not constitute interest for purposes of this section.

(6) Interest on deposits with brokers as defined in section 6045(c) and the regulations thereunder, including any payment made in lieu of interest to a person whose debt obligation has been borrowed in connection with a short sale or other similar transaction.

(7) Interest paid or credited on amounts held by investment companies as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. section 80a-3) and on amounts invested in other pooled funds or trusts. For purposes of subchapter B of chapter 24 of the Code, interest paid or credited on amounts invested in pooled funds or trusts, such as mortgage pass-through certificates or mortgage participation certificates, shall be considered to be the interest paid or credited as stated on the certificate, and shall not be the interest on any notes or obligations underlying such certificates.

(b) *Interest excluded from withholding requirement.* For purposes of this section the term "interest" does not include—

(1) Interest on any obligation issued by a natural person, irrespective of whether such amounts are collected on behalf of the holder of the obligation by a middleman. The term "natural person" means any individual, but shall not include a partnership (whether or not composed entirely of individuals), a trust, or an estate.

(2) Interest on any obligation if such interest is exempt from taxation under section 103(a) (relating to certain governmental obligations), or interest which is exempt from taxation under any other provision of law without regard to the identity of the holder. The holder of a tax exempt obligation must provide written certification to the payor (other than the issuer of the obligation) that such obligation is exempt from taxation. For this purpose, a statement that interest is tax exempt on the envelope commonly used by financial institutions to process such payments, signed by the payee, will be sufficient, provided that the envelope is properly completed (*i.e.*, shows the name, address, and taxpayer identification number of the payee). A payor may rely on such written certification in treating such interest as tax exempt and will not be liable for the tax under section 3451(a).

(3) Any amount paid on a depository institution tax-exempt savings certificate, as defined in section 128(c)(1) (as in effect for taxable years beginning prior to January 1, 1985).

(4) Any amount paid which is subject to withholding of tax under subchapter A of chapter 3 of the Code by the person paying such amount (*i.e.*, an amount which is subject to withholding of tax at the source because paid to a nonresident alien individual, trust, or estate, a foreign partnership, or a foreign corporation is not interest for purposes of this section).

(5) Any amount which would be subject to withholding under subchapter A of Chapter 3 of the Code by the person paying such amount but for the fact that—

(i) Such amount is income from sources outside the United States under section 862(a)(1).

(ii) The payor thereof is excepted from the application of section 1441(a) or 1442(a) by reason of a tax treaty to which the United States is a party.

(iii) The payor thereof is excepted from the application of section 1441(a) or 1442(a) by reason of section 1441(c) and § 1.1441-4 (a) or (f), or

(iv) Such amount is original issue discount as described by section 1232(b)(1).

(6) Any amount paid or credited to—

(i) A foreign government, a political subdivision thereof, an international organization, or any wholly-owned agency or instrumentality of the foregoing, which amount is exempt from tax under section 892, or

(ii) A foreign central bank of issue, which amount is exempt from tax under section 895.

(7) Any amount paid with respect to an obligation of, or a deposit with, an issuer or other obligor which is—

(i) A foreign government, a political subdivision thereof, an international organization, or any wholly-owned agency or instrumentality of the foregoing,

(ii) A foreign central bank of issue,

(iii) A foreign corporation, if such corporation is not engaged in trade or business within the United States during the calendar year of the payment,

(iv) A foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 of the Code if such payments were made to a person who is not a United States person, or

(v) A partnership composed in whole of nonresident alien individuals and persons described in paragraph (b) (7) (i), (ii), or (iii) of this section, if such partnership is not engaged in trade or business within the United States during the calendar year of the payment.

(8) Any amount on which the person making the payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

(9) Any amount not otherwise described in this paragraph which is paid outside the United States and which is income from sources outside the United States within the meaning of section 862(a)(1).

(10) Interest earned on amounts held by employee stock purchase plans for purchase of stock for employees.

(11) Interest on amounts held in escrow to guarantee performance on a contract or to provide security (but see § 1.6049-5(b)(1)(iii) with respect to the requirement for reporting on such amounts if deposited with a person described in paragraph (a) (3) or (4) of this section).

(12) Interest that a governmental unit pays with respect to tax refunds.

(13) Interest on deposits posted for security, such as deposits posted with a public utility company. However, interest on deposits posted for security with a person described in paragraph (a) (3) or (4) of this section is interest for purposes of this section.

(c) *Amounts paid to persons who are not United States persons.* (1) A payor may treat an amount as an amount described in paragraph (b)(4) of this section if such payor in fact withholds tax on such amount under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3.

(2) Unless it has actual knowledge that the payee is a United States person, a payor may treat such amount as an amount described in paragraph (b)(5)(ii) of this section if with respect to such amount the payee provides the payor with a Form 1001 in accordance with § 1.1441-6 (b) or (c) or with a certificate or corresponding letter in accordance with § 1.1441-6(c)(3).

(3) Unless it has actual knowledge that the payee is a United States person, a payor may treat such amount as an amount described in paragraph (b)(5)(iii) of this section if with respect to such amount it has received a Form 4224 from the payee in accordance with § 1.1441-4(a) or has on file with respect to such amount a notice described in § 1.1441-4(f)(2)(ii).

(4) Unless it has actual knowledge that the payee is a United States person, a payor may treat such amount as an amount described in paragraph (b)(5) (i) or (iv) of this section if it receives a statement, signed by the payee under penalties of perjury, certifying that the payee is not a United States person, or, in the case that the payee is an individual, that the individual is neither a citizen nor a resident of the United States. In addition to such certification, the statement also shall contain the name of the payee, the address of the payee, and the taxpayer identification number (if any) of the payee. The address provided for an individual shall be that of his permanent residence; that provided for a partnership or corporation shall be the address of its principal office; and that provided for a trust or an estate shall be the address of the permanent residence or principal office of any fiduciary of the trust or estate. The statement may be made, at the option of the payor, on a Form W-8 or on a form prepared by the payor which is substantially similar to Form W-8. Blank copies of Form W-8 will be supplied to payors upon request to the district director. The statement must be received by the payor in the calendar year in which the payment is made or collected or in either of the preceding 2 calendar years. The payor, however, may require the statement from the payee each time it makes a payment to, or collects an amount on behalf of, the payee. The payor shall retain the statement for at least 4 years following the end of the last calendar year during which amounts to which the statement relates are paid or collected. If the person providing the statement becomes a United States citizen or resident during the period to which the statement relates, such person shall notify the payor in writing within 30 days of such change in status. In the case of a trust or an estate, the statement referred to in this paragraph shall be provided by a fiduciary, as defined in section 7701(a)(6), on behalf of the trust or estate; and in the case of a partnership, the statement shall be provided by any general partner on behalf of the partnership. The payor need not receive the statement described in this paragraph (c)(4) with respect to an amount paid to a payee during a calendar year, if, with respect to any other amount paid to the payee in that year, the payor has withheld tax under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3 or, if, with respect to any amounts that are or may be paid to the payee during that year, the payor has received the documentation described in paragraph (c) (2) or (3) of this section in accordance with the provisions of § 1.1441-4 or § 1.1441-6.

(d) *Amounts paid by certain foreign obligors and amounts from sources outside the United States*—(1) The provisions of this paragraph (d)(1) apply with respect to determinations made by paying agents and middlemen as to whether an amount is paid with respect to an obligation or deposit of an entity described in paragraph (b)(7) of this section and as to whether an amount is income from sources outside the United States for purposes of paragraph (b)(9) of this section.

(i) Absent actual knowledge to the contrary, a paying agent or middleman may treat an entity as a foreign government or a political subdivision thereof, an international organization, or a foreign central bank of issue if the paying agent or middleman could treat such entity as an exempt recipient without the receipt of an exemption

certificate as provided in § 31.3452(c)-1(g), (h), or (i).

(ii) Absent actual knowledge to the contrary, a middleman generally may treat a corporation as a foreign corporation if its name reasonably so indicates and may treat such corporation as a corporation either which is not engaged in trade or business within the United States or the interest payments of which would be exempt from withholding under subchapter A of chapter 3 of the Code if such payments were made to a person who is not a United States person. However, a paying agent of, or a middleman having a contractual relationship with, the foreign corporation with respect to the payment or collection of an amount must receive a statement, signed under penalties of perjury, from the secretary of other authorized representative of the foreign corporation either that the corporation is not, or does not expect during the calendar year of payment to be, engaged in trade or business in the United States or that the interest paid by the foreign corporation would be exempt from withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person who is not a United States person.

(iii) Absent actual knowledge to the contrary, a middleman generally may treat a domestic corporation as a corporation the interest payments of which would not be subject to withholding under subchapter A of chapter 3 of the Code if such payments were made to a person who is not a United States person if an annual report, offering circular or other standard source of financial information published by the corporation reasonably so indicates. However, a paying agent of, or middleman having a contractual relationship with, a domestic corporation with respect to the payment or collection of an amount may, absent actual knowledge to the contrary, treat a domestic corporation as such a corporation only if the secretary or other authorized representative of the corporation provides the paying agent or middleman with a statement, signed under penalties of perjury, that interest paid by such corporation would not be subject to withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person who is not a United States person.

(iv) A paying agent or middleman may, absent actual knowledge to the contrary, treat a partnership as a partnership which is not engaged in trade or business in the United States during the calendar year of payment and which is composed in whole of nonresident alien individuals or persons described in paragraph (b)(7) (i), (ii), or (iii) of this section if it receives a statement, signed under penalties of perjury, from any general partner of the partnership that the partnership is not, and is not expected during the calendar year of the payment to be, engaged in trade or business in the United States and that all of its partners are, and are expected during the calendar year of payment to be, nonresident alien individuals or persons described in paragraph (b)(7) (i), (ii), or (iii) of this section.

(v) A statement received by a paying agent or middleman in accordance with the provisions of this paragraph (d)(1) must be provided to such paying agent or middleman in the calendar year in which a payment is made or collected or in either of the 2 preceding calendar years. The paying agent or middleman may, however, require such a statement from the corporation or partnership each time it makes a payment for the corporation or partnership. The paying agent or middleman shall retain the statement for at least 4 years following the end of the last calendar year during which an amount to which the statement relates is paid or collected. If after providing the statement described above the status of the corporation or partnership changes from that reflected in the statement, the corporation or partnership shall notify the paying agent or middleman within 30 days of such change in status.

(2) Notwithstanding the provisions of paragraph (b)(7) of this section, amounts described in such paragraph are considered to be interest for purposes of this section when paid within the United States to a United States person. In such case, the person required to withhold tax under section 3451 is the payor which makes the payment within the United States. For purposes of this paragraph, the term "United States person" is defined in section 7701(a)(30).

(3) Paragraph (d)(2) of this section shall not apply with respect to an international organization (as described in paragraph (b)(7)(i) of this section) or to a person acting in its capacity as a paying agent for such organization, which is paying interest within the United States if the international organization is an organization of which the United States is a member and which enjoys immunity or exemption from any liability or obligation to pay, withhold, or collect tax pursuant to an international agreement having full force and effect in the United States.

(4) For purposes of paragraph (d)(2) of this section, a payor may, unless it has actual knowledge to the contrary, treat a person to whom it makes a payment within the United States as a person who is not a United States person if, during the calendar year of payment, it withholds tax on any amount paid to such person under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3 or if, with respect to any amount that is or may be paid to such person during that calendar year, it has received documentation described in paragraphs (c) (2), (3), or (4) of this section in accordance with the provisions of such paragraphs and of § 1.1441-4 or § 1.1441-6.

(e) *Examples.* The application of the provisions of paragraphs (b), (c), and (d) of this section may be illustrated by the following examples:

Example (1). Corporation X is a foreign corporation which is not engaged in trade or business in the United States during the calendar year. A, a United States citizen who is not an exempt individual, holds bonds of Corporation X that were issued by the latter in a public offering. A collects the interest on such bonds by presenting the coupons therefrom to M, a paying agent of Corporation X whose office is in the United States. Amounts paid with respect to obligations of Corporation X are generally not considered to be interest for purposes of section 3451 since Corporation X is an entity described in paragraph (b)(7)(iii) of this section. However, as M makes a payment of such amounts within the United States to a United States person, the payment by M is considered to be a payment of interest for purposes of section 3451, and M is required to withhold. See § 31.3453(c)-1(a) with respect to the payment made by M on behalf of Corporation X.

Example (2). The facts are the same as in Example (1) except that A presents his coupons directly to Corporation X at its office in the United States. In accordance with paragraph (d)(2) of this section, the payment by Corporation X with respect to the coupons is considered to be a payment of interest for purposes of section 3451, and Corporation X is required to withhold.

Example (3). The facts are the same as in Example (1) except that A is a nonresident alien individual. A provides M with the statement described in paragraph (c)(4) of this section, which certifies that A is not a United States citizen or resident. Unless M has actual knowledge that the statement provided by A is false, M may rely on such statement and is not required to withhold under section 3451.

Example (4). The facts are the same as in Example (1) except that Corporation X is engaged in trade or business in the United States and 50 percent or more of its gross income for the preceding 3-year period described in section 861 (a)(1)(C) has been income which is effectively connected to its

United States trade or business. Corporation X is not a beneficiary of an income tax treaty to which the United States is a party. A presents its coupons for payment directly to Corporation X at its office outside the United States. The amount paid by Corporation X is not excluded from the definition of interest for purposes of section 3451 under either paragraph (b)(7)(iii) or (b)(7)(iv) of this section since Corporation X is engaged in trade or business in the United States and since all or a portion of the interest paid by it would be subject to withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person who is not a United States person. Therefore, Corporation X is required to withhold tax on the amount paid to A.

Example (5). The facts are the same as in Example (4) except that Corporation X is a resident of a country which has an income tax treaty with the United States that precludes the United States from imposing tax on interest paid by residents of that country to persons who are not United States persons. Under paragraph (b)(7)(iv) of this section the amount paid by Corporation X on its bonds is not considered to be interest for purposes of section 3451 since, by reason of the application of a treaty, interest paid by Corporation X would be exempt from withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person other than a United States person. Corporation X is not required to withhold on amounts paid to A.

Example (6). The facts are the same as in Example (5) except that A presents its coupons from the Corporation X bonds for payment to N, a paying agent of Corporation X in the United States. The payment by N to A is considered to be a payment of interest under paragraph (d)(2) of this section, and N is required to withhold tax on such payment. See § 31.3453(c)-1(a) with respect to the payment made by N on behalf of Corporation X.

Example (7). Corporation Y is a domestic corporation, all of the gross income of which for the 3-year period described in section 861(a)(1)(B) has been from sources outside the United States. B, a United States citizen who is not an exempt individual, holds bonds issued by Corporation Y in a public offering. B presents the coupons from such bonds for payment to Corporation Y at an office maintained by Corporation Y outside the United States. Under paragraph (b)(9) of this section, the amounts paid by Corporation Y are not considered to be interest for purposes of section 3451 since such amounts are considered to be from sources outside the United States under sections 861(a)(1)(B) and 862(a)(1) and are paid outside the United States. Corporation Y is not required by section 3451 to withhold tax on its payment to B.

Example (8). D has a deposit in an account maintained with a foreign branch of R, a domestic corporation which carries on a commercial banking business. R makes a payment with respect to such deposit outside the United States. The amount paid is considered to be income from sources outside the United States under sections 861(a)(1)(F)(i) and 862(a)(1) and, in accordance with paragraph (b)(9) of this section, is not considered to be interest for purposes of section 3451. Therefore, R is not required to withhold tax under section 3451 regardless of whether D is or is not a United States person.

Example (9). The facts are the same as in Example (8) except that D's deposit is in a Puerto Rican branch of a United States bank. The amount paid with respect to such deposit is income from sources outside the United States within the meaning of sections 861(a)(1)(F)(i) and 862(a)(1). In accordance with the provisions of paragraph (b)(9) of this section, such amount is not considered to be interest for purposes of section 3451, and R is not required by such section to withhold tax on the amount paid to D regardless of whether D is or is not a United States person.

Example (10). E, a nonresident alien individual, maintains an account in the United States with Corporation S, a domestic corporation which carries on a commercial banking business. S receives the statement described in paragraph (c)(4) of this section from E with respect to the amount paid on the deposit in E's account with S. Such amount is considered to be income from sources outside the United States under sections 861(a)(1)(A) and 862(a)(1) and is not subject to withholding under subchapter A of chapter 3 of the Code. In accordance with the provisions of paragraph (b)(5)(i) of this section, such amount is not considered to be interest for purposes of section 3451, and S is not required to withhold under section 3451.

Example (11). U is a domestic corporation which is engaged in a commercial banking business in the United States and outside the United States through a foreign branch. F, an alien individual resident of the United States who is not an exempt individual, holds a nondeposit obligation of U which is part of a public debt issuance of U. F makes a demand for payment of the interest due on such obligation at the foreign branch of U. The amount paid by U is considered to be income from sources within the United States under section 861(a)(1) and is considered to be interest for purposes of section 3451. U, therefore, is required to withhold tax with respect to the payment to F.

Example (12). The facts are the same as in Example (11) except by the obligation held by F was issued by W, a wholly-owned foreign subsidiary of U. W is not engaged in trade or business in the United States during the calendar year. F makes a demand for payment of the interest at the office of W outside the United States. Under paragraph (b)(7)(iii) of this section, the amount paid by W to F is not considered to be interest for purposes of section 3451. Therefore, W is not required to withhold tax with respect to the payment to F, regardless of whether F is or is not a United States person.

Example (13). Q, a domestic corporation, acts within the United States as custodian for G, a nonresident alien individual, with respect to obligations of Z that are owned by G. G, a nonresident alien individual, resides in a country with which the United States has an income tax treaty. Z is a foreign corporation, the interest payments of which would not be subject to withholding under subchapter A of chapter 3 of the Code if such payments were made to a person who is not a United States person. During the preceding calendar year, Q received a Form 1001 from G in accordance with the provisions of § 1.1441-6(c) with respect to interest paid on other corporate obligations held by Q on G's behalf. During the present calendar year Q collects amounts paid on the Z obligations on behalf of G. G does not give Q the statement described in paragraph (c)(4) or (d)(4) of this section with respect to such amounts. However, as the Form 1001 submitted by G in the preceding calendar year is effective during the present calendar year with respect to certain amounts that are or may be paid to G, Q is not required to withhold on the amounts collected on G's behalf with respect to the Z obligations.

(f) *Interest adjustment for penalty for premature withdrawal*—(1) *In general.* For purposes of this section, the term "interest" does not include the portion of any interest payment which is not received by the payee because of the imposition of a penalty for premature withdrawal of funds deposited in a time savings account, certificate of deposit, or similar class of deposit.

(2) *Examples.* The application of the provisions of this paragraph may be illustrated by the following examples:

Example (1). A deposits $10,000 in a 4-year savings account with Bank M on January 2, 1985, which earns 10.75 percent interest per annum payable quarterly. A must pay a penalty equal to the previous 3 months' interest if the funds are withdrawn prior to January 2, 1989. Assuming that A leaves the funds on deposit until March 31, 1985, A's funds will have earned $268.75 in interest. On March 31, 1985, M will be required to withhold $26.88 (*i.e.*, .10×$268.75) from A's account.

Example (2). Assume the same facts as in Example (1) except that A withdraws the funds on September 30, 1985. A penalty, in the amount of $281.91 (*i.e.*, an amount equal to the previous 3 months' interest earned by A) is imposed on A. M is not required to withhold any amount on that date since the penalty imposed on A is equal to the interest earned by A that quarter.

Example (3). Assume the same facts as in Example (2) except that the penalty imposed on A by M is equal to 6 months' interest (*i.e.*, $557.16). On June 30, 1985, M credited A's account with $275.25 in interest and withheld $27.53 (*i.e.*, 10 percent of $275.25). On September 30, 1985, M is not required to withhold any amount since the penalty imposed on A on that date exceeds the interest creditable to A on that date. M does not adjust the amount of tax which was withheld from A on June 30, 1985. Thus A will receive $10,214.34 (*i.e.*, the sum of the amount of the principal deposited by A and the interest paid to A on March 31, 1985, June 30, 1985, and September 30, 1985, less the amount of the tax withheld by M on March 31, 1985, and June 30, 1985, and less the penalty imposed on A on September 30, 1985, when the account is closed).

§ 31.3454(b)-1 Definition of dividend.

(a) *In general.* Except as provided in paragraph (d) of this section, the term "dividend" means—

(1) Any distribution made by a corporation to its shareholders which is a dividend as defined in section 316, and

(2) Any payment made by a stockbroker to any person as a substitute for a dividend (as so defined). A "dividend" paid by an insurance company to a policy holder (but not a dividend upon its capital stock) is not a dividend for purposes of this section. Similarly, payments (however denominated) by a mutual savings bank, savings and loan association, credit union, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares are not dividends for purposes of this section (but see section 3453(a) and § 31.3453(a)-1(a)(4) defining interest as including such payments). The payments by a stockbroker which are defined as dividends in paragraph (a)(2) of this section include any payment made in lieu of a dividend to a person whose stock has been borrowed in connection with a short sale or other similar transaction. A distribution by an S corporation is a dividend for purposes of this section to the extent it is described in section 1368(c)(2).

(b) *Dividend reinvestment plan*—(1) *In general.* The term "dividend" includes any dividend which is reinvested pursuant to a plan under which a shareholder may elect to receive stock as a dividend instead of property (except as provided in section 3454(b)(2)(A) and paragraph (c)(1) of this section, relating to investment of dividends in stock of public utilities).

(2) *Amount subject to withholding.* In the case of a dividend paid pursuant to a dividend reinvestment plan (other than a dividend described in section 3454(b)(2)(A) and paragraph (c)(1) of this section), the tax under section 3451(a) shall apply to the amount of any gross cash payment made to the shareholder, or credited to his account. At the discretion of the payor, the tax under section 3451 need not be applied to any excess of the fair market value of the shares of stock received by the shareholder or credited to his account over the purchase price of such shares (including shares acquired by the shareholder at a discount in connection with the dividend distribution) or to any fee which is paid by the payor in the nature of a broker's fee for purchase of the stock or service charge for maintenance of the shareholder's account, provided that the payor must treat such excess amounts and fees on a consistent basis for each calendar year.

(c) *Exceptions.* For purposes of this section, the term "dividend" does not include—

(1) Any dividend which is reinvested pursuant to a qualified plan in stock of a public utility. For this purpose, the amount of the reinvested dividend paid to any person, the identity of the recipient, and whether the recipient makes the election required by section 305(e)(2)(B) are irrelevant. See section 305(e)(2)(A) and the regulations thereunder.

(2) Any amount treated as a taxable dividend by reason of section 302 (relating to redemptions of a stock).

(3) Any amount which is treated as a taxable dividend by reason of section 306 (relating to disposition of certain stock).

(4) Any amount which is treated as a taxable dividend by reason of section 356 (relating to receipt of additional consideration in connection with certain reorganizations).

(5) Any amount which is treated as a taxable dividend by reason of section 1081(e)(2) (relating to certain distributions pursuant to an order of the Securities and Exchange Commission).

(6) Any amount described in paragraphs (b) (4), (5), or (6) of § 31.3454(a)-1. (See § 31.3454(a)-1(c) for rules to be followed concerning the application of paragraph (b) (4) and (5) of such section).

(7) Any amount paid with respect to the stock of a foreign corporation that is not engaged in trade or business in the United States during the calendar year of the payment except to the extent that, within the United States, the foreign corporation or any person acting as a paying agent or a middleman pays such amount to a United States person. In such case the foreign corporation, paying agent, or middleman shall be the person required to withhold tax under subchapter B of chapter 24 of the Code. A foreign corporation, paying agent, or middleman may, absent actual knowledge to the contrary, treat a person to whom a dividend is paid within the United States as not being a United States person if, during the calendar year of payment, it withholds tax under subchapter A of chapter 3 of the Code on any amount paid to such person or if, with respect to any amount that is or may be paid to such person during that calendar year, it has received the documentation described in § 31.3454(a)-1(c) (2), (3), or (4) in accordance with the provisions of such sections and of § 1.1441-4 or § 1.1441-6. See § 31.3454(a)-1(d)(1) for rules to be followed concerning a determination by a paying agent or middleman of whether the foreign corporation, with respect to whose stock a payment is made, is engaged in trade or business in the United States during the calendar year of payment.

(8) Any amount which is a capital gain dividend, as defined in section 852(b)(3)(C), of a regulated investment company, including undistributed capital gains described in section 852(b)(3)(D).

(9) Any amount which is a capital gain dividend, as defined in section 857(b)(3)(C), of a real estate investment trust.

(10) Any amount which is an exempt-interest dividend, as defined in section 852(b)(5)(A), of a regulated investment company.

(11) Any amount paid or treated as paid during a year by a regulated investment company provided that it is reasonably estimated that 95 percent or more of all dividends paid or treated as paid during the year are exempt-interest dividends. If, at the time the payment is made, the payor does not know but is able reasonably to estimate, as provided in § 31.3451(b)(3)-1(b)(2), that the payment is excepted from the requirement of withholding by this subparagraph, the payor may so treat such payment.

If the portion of a dividend which would be excepted from the requirement of withholding by paragraph (c) (8), (9), or (10) of this section is unknown to the payor at the time the payment is made, the payor may reasonably estimate such amount as provided in § 31.3451(b)(3)-1(b)(2).

(d) *Example.* The application of the provisions of paragraph (c)(7) of this section may be illustrated by the following example:

Example. Corporation X, a foreign country Z corporation which is not engaged in trade or business in the United States, issues its stock in a public offering outside the United States. M, a United States person whose office is in the United States, acquires a portion of the issue on behalf of certain United States citizens who are not exempt individuals. M causes the stock so acquired to be held outside the United States by Y, a foreign corporation engaged in the commercial banking business. Dividends paid by Corporation X with respect to the shares held by Y are paid in foreign country Z currency to Y. Y exchanges the amount received into United States dollars and transfers such amount to M at M's office in the United States. M, acting as collection agent for the United States investors, then transfers the dividends to such investors net of an amount that M charges as an administrative fee for its services. As Corporation X is not engaged in trade or business in the United States, the dividends it

pays are not considered to be dividends for purposes of withholding under section 3451. Therefore, neither Corporation X nor Y is required to withhold tax under section 3451. However, as M has made payment of the dividends within the United States to United States citizens who are not exempt individuals, M is required to withhold tax under section 3451. The amount subject to withholding is the entire amount of the dividends without reduction for the administrative fee charged by M.

§ 31.3454(c)-1 Patronage dividends.

(a) *In general.* The term "patronage dividend" means—

(1) The amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notice of allocation, or other property (except nonqualified written notice of allocation),

(2) Any amount described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notice of allocation, or other property (except nonqualified written notice of allocation) by an organization described in section 521 (relating to certain exempt farmers' cooperatives),

(3) Any amount paid in money or other property (except written notice of allocation) in redemption of nonqualified written notice of allocation previously paid as a patronage dividend as described in paragraph (a)(1) of this section or as a distribution with respect to earnings derived from nonpatronage sources as described in paragraph (a)(2) of this section.

(b) *Qualified written notices of allocation.* (1) In determining the amount of a patronage dividend to be taken into account—

(i) A qualified written notice of allocation as described in section 1388(c)(1)(A) (relating to a written notice of allocation that may be redeemed at its stated dollar amount within 90 days of issuance, if the distributee receives written notice of such right of redemption as required in § 1.1388-1(c)(2) and 20 percent of such patronage dividend or payment is paid in money or qualified check) shall be taken into account at its stated dollar amount.

(ii) A patronage dividend part of which is a qualified written notice of allocation as described in section 1388(c)(1)(B) (relating to a written notice of allocation which the distributee has consented to take into account at its stated dollar amount) shall be taken into account only if 50 percent or more of the patronage dividend (as defined in paragraph (a) of this section) of which such qualified written notice of allocation is a part is paid in money or by qualified check. In such a case, such qualified written notice of allocation shall be taken into account at its stated dollar amount. For purposes of this section, if an organization pays less than 50 percent of such patronage dividend of which such qualified written notice of allocation is a part, in money or qualified check, and within the same payment period of such taxable year (within the meaning of section 1382(d)) for such patronage dividend redeems some or all of the written notice of allocation so that 50 percent or more is actually paid, then, for purposes of this section, such payments will satisify the 50 percent payment requirement, and withholding of 10 percent on the stated amount of such patronage dividend will be required.

(iii) Money shall have the meaning given to it in § 1.1388-1(c)(1)(ii).

(iv) Qualified check shall have the meaning given to it in section 1388(c)(4) and the regulations thereunder.

(2) The requirements of section 3451 shall have no effect in the determination of whether a patronage dividend meets the requirements of section 1388(c)(1) that 20 percent or more of the amount of the patronage dividend or payment be paid in money or by a qualified check. Thus, for example, in a case where an organization distributes a written notice of allocation described in section 1388(c)(1)(A) (relating to a written notice of allocation redeemable 90 days from issuance), the fact that an organization must withhold 10 percent of the sum of the stated amount of the qualified written notice of allocation and the money or qualified check that is a part of the patronage dividend, thereby reducing the amount of cash or qualified check the distributee will actually receive, does not reduce the percentage received by the patron for purposes of the 20 percent requirement of that section.

(3) If an organization makes a distribution consisting in whole or in part of a written notice of allocation and qualified check and at the time of such distribution is unable to determine whether such written notice of allocation and such check consitute a qualified written notice of allocation under section 1388(c)(1)(B) subject to withholding, such organization shall, for purposes of this section, treat such written notice of allocation as a qualified written notice of allocation subject to withholding under section 3451.

(4) If an organization makes a distribution consisting in whole or in part of a written notice of allocation and qualified check, and at the time of such distribution is unable to determine whether such written notice of allocation and such check constitute a qualified written notice of allocation under section 1388(c)(1)(A), such organization shall treat such written notice of allocation as a qualified written notice of allocation as defined in section 1388(c)(1)(A) and subject to withholding under section 3451. Therefore, the organization will withhold tax at the time of the distribution. If the qualified check is actually endorsed and cashed after the end of the 90 days following the end of the payment period and is considered the redemption of a nonqualified written notice of allocation in accordance with § 1.1388-1(c)(3)(iii)(*c*)(*2*), the withholding requirement of § 31.3454(c)-1(a)(3) will not apply as long as tax was withheld at the time of the distribution.

§ 31.3455(b)-1 Special rule regarding original issue discount.

(a) *General rule.* Except as otherwise provided in this section, the tax under section 3451 shall apply to such interest as consists of the amount of original issue discount on an obligation, as defined in section 1232(b)(1), which is includible in gross income of the holder during the calendar year. Any such amount (including any original issue discount on a short-term Government obligation, as defined in section 1232(a)(3)), shall be treated as a payment of interest from which tax must be deducted and withheld to the extent required under section 3451. Thus, for example, the tax under section 3451 does not apply to original issue discount with respect to an obligation held by an exempt individual or to original issue discount with respect to an obligation (including an obligation having a maturity not exceeding 6 months from the date of issue) held by a nonresident alien individual since such original issue discount is an amount described in § 31.3454(a)-1(b) (4) or (5). In determining whether an obligation is one which was issued at a discount and the amount of discount which is includible in income of the holder, a payor (other than the issuer of an obligation) may rely on the Internal Revenue Service's publication of publicly-traded original issue discount obligations.

(b) *Short-term obligations*—(1) *Definition.* For purposes of this section, a short-term obligation is an obligation with a fixed maturity date not exceeding 1 year from the date of issue.

(2) *Time of withholding.* (i) In the case of a short-term obligation with respect to which there is no interest payable prior to maturity, the tax under section 3451 shall be computed on the

amount of original issue discount which is includible in gross income of the holder. The amount of such tax shall be deducted and withheld at the maturity of such obligation.

(ii) In the case of a short-term obligation with respect to which there is interest payable prior to maturity, at all times prior to the maturity of such obligation, the tax under section 3451 shall apply only to the interest payment and not to any amount of original issue discount. The tax under section 3451 on the stated interest payment shall be deducted and withheld at the time such interest is paid or credited. At maturity, the tax imposed by section 3451 shall be computed on the sum of any interest payment made and the amount of original issue discount which is includible in gross income of the holder and shall be deducted and withheld at that time.

(3) *Transferred obligations.* (i) Except as provided in paragraph (b)(3)(ii) of this section, in the case of a short-term obligation which is transferred from the original holder, the tax under section 3451 shall apply to the original issue discount of such obligation without regard to the amount paid by any subsequent holder for such obligation.

(ii) At the time of redemption of a short-term obligation, a subsequent holder may establish the price at which such holder purchased the obligation and the date of such purchase. Such purchase price shall then be treated as the original issue price for purposes of computing the amount of original issue discount which is subject to the tax under section 3451. The purchase price and the date of purchase of an obligation may be established by confirmation receipt or other record of a similar type or, if the obligation is redeemed by or through the person from which the obligation was purchased, by the records of the person from which or through which purchased.

(iii) If the holder of a transferred obligation fails to supply information as provided in paragraph (b)(3)(ii) of this section concerning the purchase price and the date of purchase of such obligation, the person redeeming the obligation shall determine the tax under section 3451 as though the obligation were purchased by the holder on the date of issue and at the issue price as indicated in Internal Revenue Service publications of publicly-traded original issue discount obligations. In the case of a Treasury bill, the purchase price shall be assumed to be the noncompetitive price of a Treasury bill having the earliest issue date of all Treasury bills with the same CUSIP number and the same maturity date as the bill being redeemed.

(iv) If a short-term obligation is transferred by a holder, the tax under section 3451 shall not apply to any amount paid for such obligation. Thus, the purchaser of such obligation is not required to deduct and withhold any tax under section 3451 from the purchase price.

(c) *Long-term obligation*—(1) *Definition.* For purposes of this section, a long-term obligation is one with a fixed maturity date that is more than 1 year from the date of issue.

(2) *Time of withholding.* (i) In the case of a long-term obligation with respect to which there are no cash payments prior to maturity, the tax under section 3451 shall be deducted and withheld only at maturity and only with respect to the original issue discount includible in the income of the holder during the calendar year in which the bond matures. For purposes of this section, the term "cash payments" includes checks and other monetary media of exchange.

(ii) In the case of a long-term obligation which is in registered form and which provides for cash payments (whether consisting of interest or principal) prior to maturity, the tax under section 3451 shall be computed on the sum of the amount of stated interest paid and the original issue discount which is includible in the gross income of the holder for that calendar year. The tax shall be deducted and withheld at the time such cash payments are made. The tax which is required to be deducted and withheld shall not exceed the amount of cash payments. If more than one cash payment is made during a calendar year, the tax which is required to be withheld with respect to original issue discount shall be allocated among all the cash payments in the ratio that each cash payment bears to the total of the cash payments. Thus if during the calendar year, two equal cash payments of stated interest are made, one-half of the original issue discount includible in gross income of the holder for that calendar year shall be taken into account in computing the tax which must be withheld from each cash payment.

(iii) In the case of a long-term obligation which is in bearer form and with respect to which there is stated interest payable prior to maturity, at all times prior to the maturity of the obligation the tax under section 3451 shall apply only to the stated interest payment and not to any amount of original issue discount. The tax under section 3451 on the stated interest payment shall be deducted and withheld at the time stated interest is paid or credited. At maturity, the tax imposed by section 3451 shall apply to the sum of any stated interest payment made and the amount of original issue discount which is includible in gross income of the holder during the year of maturity.

(3) *Transferred obligations.* (i) In the case of a long-term obligation which is transferred from the original holder, the tax under section 3451 shall apply to the original issue discount of such obligation without regard to any amount paid by a subsequent holder at the time of transfer which exceeds the obligation's original issue price, increased by the portion of original issue discount previously includible in the gross income of any holder.

(ii) If a long-term obligation is transferred, the tax under section 3451 shall not apply to any amount paid for such obligation. Thus, the purchaser is not required to deduct and withhold any tax under section 3451 with respect to the purchase price of the obligation.

(d) *Examples.* The application of the provisions of this section may be illustrated by the following examples:

Example (1). On January 1, 1980, A purchases at original issue, for $7,000 cash, X Corporation's 5-year bond which has a stated redemption price at maturity of $10,000. The bond provides for no interest payments prior to maturity. The ratable monthly portion of original issue discount determined under section 1232(a)(3) is $50. If A holds the bond for 12 months of his taxable year, A must include $600 (*i.e.*, $50x12 months) in his gross income for that year and in each subsequent year that he holds the bond for the entire 12 months. No amount of the $600 of original issue discount includible in A's gross income is subject to withholding under section 3451 since no amount of cash has been paid. Assume that A holds the bond until maturity on December 31, 1984, and the bond is redeemed for $10,000 on that date. The amount subject to withholding is $600, the amount of original issue discount includible in A's gross income during the calendar year.

Example (2). Assume the same facts as in Example (1) except that A does not hold the bond until maturity but rather sells it to B on January 1, 1984, for $9,540. No amount of the sale price is subject to withholding. When B redeems the bond at maturity, the amount subject to withholding is the $600 of original issue discount accrued during 1984 even though B paid more for the bond than the original issue price increased by the amount of the original issue discount includible in the income of A. B, as a subsequent holder, is treated the same as the original holder for purposes of determining the amount subject to withholding on redemption.

Example (3). On January 1, 1984, D purchases a Treasury bill with a maturity of 52 weeks at the original issue price of $8,736. At maturity on December 31, 1984, D may redeem the bill for $10,000. The amount subject to withholding on the date of maturity

is $1,264 (the difference between the stated redemption price at maturity, $10,000, and D's purchase price for the obligation, $8,736).

Example (4). Assume the same facts as in Example (3) except that D sells the Treasury bill on March 1, 1984, to E through broker Y. E pays $8,940 for the bill. No amount of the sales price is subject to withholding. E redeems the Treasury bill through broker Y at maturity. E establishes through Y's records that E paid $8,940 to D for the Treasury bill on March 1, 1984. The amount subject to withholding at maturity is $1,060 (the difference between the stated redemption price at maturity, $10,000, and E's purchase price of $8,940).

Example (5). On January 1, 1985, F purchases at original issue, for $7,500 cash, Z Corporation's 30-year bond which has a stated redemption price at maturity of $10,000. The bond provides for annual interest payments of $1,000. Assuming F holds the bond for all of calendar year 1985, the amount of original issue discount which is includible in F's gross income during 1985 is $7.83. On December 31, 1985, Z makes its $1,000 interest payment to F. Z must withhold $100.78 (*i.e.*, .10 × $1,007.83) on that date.

Example (6). Broker G acquires a bond issued in 1960 by the United States Treasury through the Bureau of Public Debt. Broker G sells interests in the bond to the public after December 31, 1982. A purchaser may acquire an interest in any interest payment falling due under the bond or an interest in the principal of the bond. Under section 1232B, each bond component is treated as an obligation issued with original issue discount equal to the excess of the stated redemption price at maturity over the purchase price of the bond component. The interests sold by B are obligations of a type offered to the public. The bond is held by Custodian H for the benefit of the persons acquiring these interests. On receipt of interest and principal payments under the bond, Custodian H transfers the amount received to the person whose ownership interest corresponds to the bond component given rise to the payment. On January 1, 1983, J, a calendar year taxpayer, purchases from G, for $826.45 cash, a $1,000 interest coupon payable on December 31, 1984. During 1983, J must include $82.65 in income (*i.e.*, the amount of original issue discount accruing during 1983). No amount, however, is subject to withholding since no cash payment is made. During 1984, J must include $90.90 in income (*i.e.*, the amount of original issue discount accruing during 1984). On December 31, 1984, H pays J $990.91 (*i.e.*, $1,000—(.10×$90.90)) and withholds $9.09.

§ 31.3456(b)–1 Annual withholding by financial institutions.

(a) *In general.* A financial institution described in paragraph (e) of this section may elect to defer, until a date that is not later than the last day of any calendar year, deduction and withholding of the tax imposed by section 3451 during such entire year on interest paid or credited on any type of account described in paragraph (b) of this section.

(b) *Interest paid on amounts subject to election.* Only interest paid or credited on the following types of accounts is subject to the election described in paragraph (a) of this section:

(1) Ordinary savings accounts not subject to a required maturity or notice period that are evidenced by a passbook, a statement savings notice, or similar instrument,

(2) Regular share accounts,

(3) Savings deposits in accounts with respect to which the depositor is not required by the deposit contract but may at any time be required by the financial institution to give notice in writing of an intended withdrawal not less than 7 days before such withdrawal is made (whether or not such notice is in fact required), and which is not payable on a specified date or at the expiration of a specified time after the date of deposit and for which the Depository Institutions Deregulatory Committee has established no minimum balance, or

(4) Transaction accounts as defined in 12 U.S.C. section 461(b)(1)(C) (including deposits and accounts subject to negotiable order of withdrawal (NOW accounts) issued by depository institutions under 12 U.S.C section 1832(a), automatic transfer accounts issued by banks under 12 U.S.C. section 371a and 12 U.S.C. section 1828(g), share draft accounts issued by credit unions under 12 U.S.C. section 1752(5)) for which the Depository Institutions Deregulatory Committee has established no minimum balance.

Interest on types of accounts not described in this paragraph or on obligations redeemed by the payor is not subject to this election notwithstanding that the payor elects to withhold the tax which is required to be withheld under section 3451 from an alternative source which is subject to the election.

(c) *Additional requirements.* A financial institution electing under paragraph (a) of this section must assure that—

(1) The balance of any account subject to the election (except as otherwise provided in § 31.3451(b)(4)–1 (relating to withholding from alternative source)) shall not at any time be less than an amount equal to the tax under section 3451 that would have been deducted and withheld as of such time if the election were not in effect, and

(2) If an account subject to the election is closed prior to the date on which the tax under section 3451 would be deducted and withheld as a result of the election, the tax shall be deducted and withheld, before the time of closing such account, unless the payor elects to withhold such tax from an alternative source as provided in § 31.3451(b)(4)–1. If the payor elects to withhold the tax from an alternative source, the payor must withhold such amount from the alternative source at the time that the account giving rise to the payment is closed.

(d) *Rules for making the election.* If this election is made with respect to a type of account, it must be made with respect to all interest paid on accounts of a similar type described in paragraph (b) of this section. Accounts are of a similar type if the requirements relating to the amount of deposit necessary to establish and maintain the account, the terms for the withdrawal of amounts from the account, the interest rate paid on the account, and the method of computation of interest are substantially similar. The election must be made for an entire calendar year, except that, for 1983, the election must be made for the period from July 1 through December 31. The election must be made before the close of the 5th business day of the calendar year (July 8 for 1983) or, with respect to an account which the payor offers for the first time during a calendar year, before the close of the 4th business day following the 1st business day that the account is offered. This election is made by so indicating on the taxpayer's books and records by the date described in the preceding sentence and on the return required by § 31.6011(a)–1(a) used for reporting the deposit and payment of taxes withheld under section 3451. This election may not be revoked for the year for which it is made.

(e) *Financial institutions eligible to make election.* The following financial institutions are eligible to make this election:

(1) Persons carrying on the banking business,

(2) Mutual savings banks,

(3) Savings and loan associations,

(4) Building and loan associations,

(5) Cooperative banks,

(6) Homestead associations,

(7) Credit unions,

(8) Industrial loans associations or banks, and,

(9) Any savings or thrift institution that is chartered and supervised under Federal or State law,

(f) *Relationship to minimal interest payment election.* If a payor elects both to withhold on an annual basis and not to withhold from a minimal interest payment (as provided in section 3452 (d) and § 31.3452 (d)–1), the payor shall not redetermine the amount of tax which must be withheld (*i.e.*, based on the total interest paid during the calendar year).

(g) *Examples.* The application of the provisions of this section may be illustrated by the following examples:

Example (1). Credit Union M, which credits interest on a quarterly basis, elects annual withholding for its regular share accounts. M also elects not to withhold from minimal interest payments. On September 30, 1983, M credits the share account of A, an individual who is not exempt, with $55 in interest. Because $55 is not a minimal interest payment, M places a "hold" on A's account in the amount of $5.50 (*i. e.*, 10 percent of $55). On December 31, 1983, M credits A's account with $10 in interest. M is not required to withhold any amount from the $10 interest payment since such amount is a minimal interest payment. However, M must withhold the $5.50 on December 31, 1983, which it has been holding in A's account since September 30, 1983. Despite the fact that the two payments together total $65, which could be viewed as a minimal interest payment, M does not adjust its determination of September 30, 1983, of the amount which is required to be withheld.

Example (2). The facts are the same as in Example (1) except that the amount credited to A's account on September 30, 1983, is $25, and the amount credited on December 31, 1983, is $130. Since $25 is a minimal interest payment, M is not required to take any action with respect to A's account on September 30, 1983. On December 31, 1983, M withholds $13 (*i. e.*, 10 percent of $130) since $130 is not a minimal interest payment. M does not adjust the amount subject to withholding even though the $25 interest payment when added to the $130 interest payment exceeds $150, and, therefore, could be viewed as exceeding the minimal interest payment limitation.

Example (3). Bank N elects to withhold on an annual basis for its savings accounts. On September 1, 1984, B presents three Series EE Savings Bonds to N and requests that they be cashed. N elects to withhold the tax which is due with respect to the interest paid on the savings bonds from B's savings account. N must deduct and withhold such amount on September 1, 1984.

§ 31.3456(c)–1 Tax paid by recipient.

If the payor in violation of the provisions of section 3451 fails to deduct and withhold the tax, and thereafter the income tax against which the tax under section 3451 may be credited is paid, the tax under section 3451 shall not be collected from the payor. Such payment does not, however, operate to relieve the payor from liability for penalties or additions to the tax applicable in respect of such failure to deduct and withhold. The payor will not be relieved of his liability for payment of the tax required to be withheld unless he can show that the tax against which the tax under section 3451 may be credited has been paid. See § 31.3451(c)–1, relating to liability for the tax.

§ 31.3456(d)–1 Annual withholding for money market-type accounts.

(a) *In general.* A financial institution, as defined in § 31.3456(b)–1, and an investment company registered under the Investment Company Act of 1940 as a diversified, open-end management company may elect to defer, until a date that is not later than the last day of any calendar year, deduction and withholding of the tax imposed by section 3451 during such entire year on interest and dividends paid or credited on any type of account described in paragraph (b) of this section. The financial institution or investment company must comply with the additional requirements imposed on a financial institution making a similar election under § 31.3456(b)–1(c) and must make the election at the time and in the manner required for financial institutions making a similar election under § 31.3456(b)–1(d).

(b) *Types of accounts subject to election.* The following types of accounts are subject to the election described in paragraph (a) of this section:

(1) Savings deposits in accounts with respect to which the depositor is not required by the deposit contract but may at any time be required by the financial institution to give notice in writing of an intended withdrawal not less than 7 days before such withdrawal is made (whether or not such notice is in fact required), which are not payable on a specified date or at the expiration of a specified time after the date of deposit, which are subject to a minimum balance established by the Depository Institutions Deregulatory Committee, and for which the depository institution must restrict all preauthorized (including automatic) transfers of funds to a maximum of six per month (three of which may be by check, draft, or similar device drawn by the depositor to third parties),

(2) Transaction accounts as defined in 12 U.S.C. section 461(b)(1)(C) (including deposits and accounts subject to negotiable orders of withdrawal (NOW accounts) issued by depository institutions under 12 U.S.C. section 1832(a), and automatic transfer accounts issued by banks under 12 U.S.C. section 371a and 12 U.S.C. section 1828(g)) which are subject to a minimum balance established by the Depository Institutions Deregulatory Committee, and

(3) Accounts offered by investment companies described in paragraph (a) of this section which have at all times during the taxable year at least 80 percent of their assets invested in cash or cash items (including receivables), or debt obligations maturing in 13 months or less.

Par. 5. The following section is added after § 31.6011 (a)–9:

§ 31.6011(a)–10 Returns of income tax withheld from interest, dividends, and patronage dividends.

(a) *In general.*—(1) *Annual returns.* Except as otherwise provided in paragraph (b) of this section every payor required to withhold taxes from interest, dividends, and patronage dividends pursuant to section 3451 shall make a return upon the prescribed form regarding such taxes for the first calendar year in which it is required to deduct and withhold such tax and for each subsequent calendar year (whether or not the payor is required to deduct and withhold the tax imposed by section 3451 therein) until it has filed a final return.

(2) *Final returns.* A payor who is required to make a return pursuant to paragraph (a)(1) of this section and who in any return period is no longer required to withhold the tax under section 3451 in respect of which he is required to make such return shall make a final return for such period. Each return made as a final return shall be marked "Final return" by the person filing the return. Every person filing a final return shall furnish information showing the last date on which the tax under section 3451 was required to be withheld. A payor who has only temporarily ceased to pay interest, dividends, and patronage dividends shall not make a final return but shall continue to file returns. There shall be executed as a part of each final return a statement showing the address at which the records required by the regulations in this part will be kept, the name of the person keeping such records, and, if the business of a payor had been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or transfer took place. If no such sale or transfer occurred or the payor does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement. Such statement shall include any information required by this section as to the date of the last payment of interest, dividends, or patronage dividends.

(b) *Monthly returns.*—(1) *Requirement.* The provisions of this paragraph are applicable in respect of the taxes reportable on the form prescribed pursuant to this section. Any payor who is required by paragraph (a) of this section to make annual returns

upon such form shall, in lieu of making annual returns, make returns of such taxes in accordance with this paragraph if he is so notified in writing by the district director. The district director may so notify any payor (i) who, by reason of notification as provided in § 31.7512–1, is required to comply with the provisions of such § 31.7512–1, or (ii) who has failed to (A) make any such return upon the prescribed form, (B) pay tax reportable on such form, or (C) deposit any such tax as required under the provisions of § 31.6302 (c)–5. Every payor so notified by the district director shall make a return for the calendar month in which the notice is received and for each calendar month thereafter (whether or not the tax imposed by section 3451 is required to be deducted and withheld in any such month) until it has filed a final return or is required to make annual returns pursuant to notification as provided in paragraph (b)(2) of this section. However, if the notice provided for in this subparagraph is received after the close of the first month of a calendar year, the first return under this section shall be made for the period beginning with the first day of the year and ending with the last day of the month in which the notice is received. Each return required under this section shall be made upon the prescribed form, except that, if some other form is furnished by the district director for use in lieu of such prescribed form, the return shall be made on such other form.

(2) *Termination of requirement.* The district director, in his discretion, may notify the payor in writing that it shall discontinue the filing of monthly returns under this section. If the payor is so notified, the last month for which a return shall be made under this section is the month in which such notice of discontinuance is received. Thereafter, the payor shall make annual returns in accordance with the provisions of paragraph (a) of this section. The annual return for the year in which the payor's monthly return requirement was terminated must include all taxes required to be withheld from interest, dividends, and patronage dividends during the year including those required to be withheld during the months for which monthly returns were required to be filed under paragraph (b)(1) of this section.

(c) *Information returns on Form 1099.* See §§ 1.6042–2, 1.6044–2, and 1.6049–4 for requirements regarding information returns on Form 1099 with respect to dividends, patronage dividends, and interest, respectively.

(d) *Time and place for filing returns.* For provisions relating to the time and place for filing returns required under this section see §§ 31.6071 (a)–2 and 31.6091–1, respectively.

Par. 6. The following section is added after § 31.6071 (a)–1:

§ 31.6071(a)–2 Time for filing returns and other documents.

(a) *Income tax withheld from interest, dividends, and patronage dividends.*—(1) *Annual returns.* Each return required to be made under § 31.6061 (a)–10 (a) regarding returns of tax withheld from interest, dividends, and patronage dividends under section 3451 shall be filed on or before the last day of the first calendar month following the year for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under § 31.6302 (c)–5 have been made in full payment such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the date stamped on the applicable deposit form by an authorized financial institution or by a Federal Reserve bank.

(2) *Monthly tax returns.* Each monthly return required to be made under §31.6011 (a)–10(b) (regarding returns of tax withheld from interest, dividends, and patronage dividends under section 3451) shall be filed on or before the fifteenth day of the first calendar month following the period for which it is made.

(3) *Information returns on Form 1099.* See §§ 1.6042–2, 16044–2, and 1.6049–4 for requirements regarding the time for filing information returns on Form 1099 with respect to dividends, patronage dividends, and interest, respectively.

(b) *Last day for filing.* For provisions relating to the time for filing a return when the due date falls on Saturday, Sunday, or a legal holiday, see the provisions of § 301.7503–1 of this chapter (Regulations on Procedure and Administration).

(c) *Late filing.* For additions to the tax in case of failure to file a return within the prescribed time, see the provisions of § 301.6651–1 of this chapter (Regulations on Procedure and Administration).

Par. 7. The following section is added after § 31.6302 (c)–4:

§ 31.6302(c)–5 Use of Government depositaries in connection with taxes withheld from interest, dividends, and patronage dividends.

(a) *Requirement.*—(1) *In general.* (i) Except as provided in paragraph (b) of this section and hereinafter in this paragraph (a)(1), if at the close of any calendar month the aggregate amount of undeposited taxes (as defined in paragraph (a)(1)(vi) of this section) is $500 or more, the payor shall deposit the undeposited taxes in an authorized financial institution or a Federal Reserve bank within 15 calendar days after the close of such calendar month. However, paragraph (a)(1)(i) of this section shall not apply if the payor was required to make a deposit of taxes pursuant to paragraph (a)(1)(ii) of this section with respect to an eighth-monthly period which occurred during the calendar month.

(ii) Except as provided in paragraph (b) of this section and except in the case of first-time 3-banking-day depositors as defined in paragraph (a)(1)(iv) of this section, if at the close of any eighth-monthly period the aggregate amount of undeposited taxes is $3,000 or more, the payor shall deposit the undeposited taxes in an authorized financial institution or a Federal Reserve bank within 3 banking days after the close of such eighth-monthly period. For purposes of determining the amount of undeposited taxes at the close of an eighth-monthly period, undeposited taxes consisting of taxes required to be withheld during a prior eighth-monthly period shall not be taken into account if the payor was required to make a deposit with respect to such prior eighth-monthly period. The excess (if any) of a deposit over the actual taxes for a deposit period shall be applied in order of time to each of the payor's succeeding deposits with respect to the same period for which a return is required to be filed, until exhausted, to the extent that the amount by which the taxes for a subsequent deposit period exceed the deposit for such subsequent deposit period. For purposes of paragraph (a)(1)(ii) of this section, "eighth-monthly period" means the first 3 days of a calendar month, the 4th day through the 7th day of a calendar month, the 8th day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, and the portion of a calendar month following the 25th day of such month.

(iii) A payor will be considered to have complied with the requirements of paragraph (a)(1)(ii) of this section for a deposit with respect to the close of an eighth-monthly period if—

(A) His deposit is not less than 95 percent of the aggregate amount of the taxes required to be withheld under section 3451 during the period or periods for which the deposit is made, and

(B) If such eighth-monthly period occurs in a month other than the last month of a period for which a return is required to be filed (hereinafter in this section referred to as a "return period"), he deposits any underpayment with his first deposit which is otherwise required to be made after the 15th day of the following month.

(iv) For purposes of paragraph (a)(1)(ii) of this section, a "first-time 3-banking-day depositor" is a payor who establishes to the satisfaction of the Commissioner that he was not required (without taking this exception into account) to make a deposit pursuant to paragraph (a)(1)(ii) of this section with respect to each eighth-monthly period in any preceding month of the current calendar year and with respect to each eighth-monthly period in the calendar year preceding the current calendar year. A payor may in no event qualify as a "first-time 3-banking-day depositor" with respect to any eighth-monthly period if the undeposited taxes at the close of that period are $10,000 or more.

(v) If the aggregate amount of taxes (as defined in paragraph (a)(1)(iv) of this section) reportable on a return for a return period exceeds the total amount deposited by the payor pursuant to paragraph (a)(1)(i) or (ii) of this section for such return period by $1 or more, the payor shall, on or before the last day of the first calendar month following the close of the return period, deposit with an authorized financial institution or a Federal Reserve bank an amount equal to the amount by which the taxes reportable on the return exceed the total deposits (if any) made pursuant to paragraph (a)(1)(i) or (ii) of this section for such return period.

(vi) As used in this paragraph (a)(1), the term "taxes" means the tax required to be withheld on interest, dividends, and patronage dividends under section 3451.

(2) *Transitional rules.* (i) In the case of a calendar month which begins—

(A) Before July 1, 1984, for all payors required to make deposits of taxes under paragraph (b)(1) of this section,

(B) Before July 1, 1985, for medium-sized financial institutions (as defined in paragraph (a)(2)(ii) of this section), and

(C) Before July 1, 1986, for small financial institutions (as defined in paragraph (a)(2)(ii) of this section), paragraph (a)(1) of this section shall be applied by substituting within 19 banking days" for "within 15 calendar days" in paragraph (a)(1)(i) thereof and for "within 3 banking days" in paragraph (a)(2)(ii) thereof. The exception in the case of first-time 3-banking-day depositors as defined in paragraph (a)(1)(iv) of this section shall not apply to payors making deposits in accordance with this subparagraph (2). The provisions of paragraph (a)(1)(iii)(B) of this section shall not be applied to require the deposit of any amount on a date earlier than the date on which such amount would be required to be deposited under paragraph (a)(1)(ii) of this section without regard to paragraph (a)(1)(iii) of this section.

(ii) For purposes of paragraph (a)(2)(i) of this section, the term "financial institution" means any bank as defined in section 581, any foreign bank described in section 585(a)(2), and any mutual saving bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar savings organization. For purposes of paragraph (a)(2)(i)(B) of this section, a "medium-sized" financial institution is one having an amount on deposit on March 31, 1983, that equals or exceeds $100 million but does not exceed $1 billion, and a "small" financial institution is one having an amount on deposit on March 31, 1983, that is less than $100 million. For purposes of paragraph (a)(2)(i)(B) and (C) of this section, only the amount on deposit with a foreign bank maintained within the United States shall be taken into account in determining whether such bank constitutes a small- or medium-sized financial institution. All financial institutions which are members of the same affiliated group on March 31, 1983, as defined in section 1504 shall be treated as a single financial institution, only for purposes of determining whether such affiliated group constitutes a small or medium-sized financial institution. For purposes of this subdivision (ii), the term "amount on deposit" means any deposits, investment certificates, withdrawable or repurchasable shares, or other amounts with respect to which the financial institution pays interest or provides services (such as services with respect to a demand deposit account that does not bear interest) in the ordinary course of the institution's business as a financial institution. The term "amount on deposit" shall not include amounts with respect to which the financial institution pays interest or provides services as an agent for another payor.

(b) *Exception for monthly returns.* The provisions of this section are not applicable with respect to taxes for the month in which the payor receives notice from the district director that returns are required under § 31.6011(a)–10(b) (or for any subsequent month for which such a return is required), if those taxes are also required to be deposited under the separate accounting procedures provided in § 31.7512–1 (which procedures are applicable if notification is given by the district director of failure to comply with certain collected taxes). In cases in which a monthly return is required under § 31.6011(a)–10(b) but the taxes are not required to be deposited under the separate accounting procedures provided in § 31.7512–1, the provisions of this section shall apply except that paragraph (a)(1)(iii) of this section shall not authorize the deferral of any deposit to a date after the date on which the return is required to be filed.

(c) *Additional rules.*—(1) *Penalties for failure to make deposits.* For provisions relating to the penalty for failure to make a deposit within the time prescribed by this section, see § 301.6656–1 of this chapter (Regulations on Procedure and Administration).

(2) *Saturday, Sunday, or legal holidays.* For provisions relating to the time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday, see § 301.7503–1 of this chapter (Regulations on Procedure and Administration).

(3) *Employer identification number.* For the definition of the term "employer identification number", see § 301.7701–12 of this chapter [Regulations on Procedure and Administration]. For provisions relating to the penalty for failure to include the employer identification number in a return, statement, or other document, see section 6676(a).

(4) *Deposits and depositary forms.* A deposit required to be made by a payor under paragraph (a) of this section shall be made separately from any other deposit required to be made under any other section. A deposit for a period in 1 calendar year shall be made separately from any deposit for a period in another calendar year. An amount of tax which is not otherwise required to be deposited may nevertheless be deposited if the payor so desires. Each remittance of amounts required to be deposited under paragraph (a) of this section shall be accompanied by a Federal Tax Deposit Form 513

applicable to taxes withheld from interest, of a Federal Tax Deposit Form 514, applicable to taxes withheld from dividends and patronage dividends, or by both such forms if amounts are required to be deposited with respect to taxes withheld both from interest and from dividends or patronage dividends. Such forms shall be prepared in accordance with the instructions applicable thereto. The remittance, together with the required form or forms, shall be forwarded to a Federal Reserve bank, or at the election of the payor, to a financial institution authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date the deposit is received (or is deemed received under section 7502(e)) by the authorized financial institution or by the Federal Reserve bank. Each payor making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and deposit by the due date of such return the balance, if any, of the taxes due for such period.

(5) *Time deemed paid.* In general, amounts deposited under paragraph (a) of this section shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year which contains the peirod for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(6) *Procurement of prescribed form.* Copies of Form 513 and Form 514 will so far as possible be furnished payors. However, a payor will not be excused from making a deposit by the fact that no form hs been furnished to it. A payor not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The payor may secure additional copies of Form 513 or Form 514 by applying therefor to the district director or director of a service center, and supplying with its application its name, identification number, address, and the taxable period to which the deposits will relate.

Par. 8. The following section is added after § 31.6682–1:

§ 31.7512–1 Separate accounting for certain collected taxes.

(a) *Scope.* The provisions of section 7512 and this section apply to the tax required to be withheld on interest, dividends, and patronage dividends by section 3451.

(b) *Requirement.* If the district director determines that any person required to collect, account for, and pay over any tax described in paragraph (a) of this section has, at the time and in the manner prescribed by law or regulations, failed to collect, truthfully account for, or pay over any such tax, or make deposits, payments, or returns of any such tax, such person, if notified to do so by the district director in accordance with section 7512 and paragraph (d) of this section, shall—

(1) Collect, at the times and in the manner provided by the law and the regulations in respect of the tax described in paragraph (a) of this section, all of the taxes described in such paragraph which become collectible by him after receipt of such notice;

(2) Deposit the taxes so collected, not later than the end of the second banking day after collection, with a bank, as defined in section 581, in a separate account established in accordance with paragraph (c) of this section; and

(3) Keep in such account the taxes so deposited until payment thereof is made to the United States as required by the law and the regulations in respect of such taxes.

The separate accounting requirements contained in paragraphs (b) (1), (2) and (3) of this section are applicable, in the case of the tax described in paragraph (a) of this section, to taxes under section 3451 required to be deducted and withheld after receipt of the notice from the district director, irrespective of whether the interest, dividends, or patronage dividends giving rise to such tax accrued prior to or after receipt of the notice.

(c) *Trust fund account.* The separate bank account referred to in paragraph (b) of this section shall be established under the designation, "(Name of person required to establish account), Trustee, Special Fund in Trust for United States under section 7512, I.R.C.". The taxes deposited in such account shall constitute a fund in trust for the United States payable only to the Internal Revenue Service on demand by the trustee.

(d) *Notice.* Notice to any person requiring his compliance with the provisions of section 7512(b) and this section shall be in writing and shall be delivered in hand to such person by an internal revenue officer or employee. In the case of a corporation, partnership, or trust, notice delivered in hand to an officer, partner, or trustee shall be deemed to be notice delivered in hand to such corporation, partnership, or trust and to all officers, partners, trustees, and employees thereof.

(e) *Cancellation of notice.* The district director may relieve a person to whom notice requiring separate accounting has been given pursuant to section 7512 and this section from further compliance with such separate accounting requirements whenever he is satisfied that such person will comply with all requirements of the Code and the regulations applicable, in respect of the taxes to which the notice relates, in the case of persons not required to comply with the provisions of section 7512(b). Notice of cancellation of the requirement for separate accounting shall be made in writing and shall take effect at such time as is specified in the notice of cancellation.

(f) *Penalties.* For criminal penalty for failure to comply with any provision of section 7512, see section 7215. For criminal penalties for failure to file return, supply information, or pay tax, for failure to collect or pay over tax, and for attempt to evade or defeat tax, see sections 7203, 7202, and 7201, respectively.

This Treasury decision is issued under the authority contained in sections 3451(b), 3452 (b), (c), (d), and (f), 3453 (b), (c), and (e), 3454 (a) and (b), 3455(b), 3456 (b) and (d), 6302, and 7805 of the Internal Revenue Code of 1954 (96 Stat. 576, 26 U.S.C. 3451(b); 96 Stat. 577, 578, and 579, 26 U.S.C. 3452 (b), (c), (d), and (f); 96 Stat. 580, 26 U.S.C. 3453 (b), (c), and (e); 96 Stat. 580 and 582, 26 U.S.C. 3454 (a) and (b); 96 Stat. 584, 26 U.S.C. 3455(b); 96 Stat. 585, 26 U.S.C. 3456 (b) and (d); 68A Stat. 775, 26 U.S.C. 6302; 68A Stat. 917, 26 U.S.C. 7805) and in section 308 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 591).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 16, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

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26 CFR Parts 1 and 5f

[T.D. 7881]

Income Tax; Information Reporting Requirements With Respect to Interest and Original Issue Discount

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to information reporting requirements with respect to interest and original issue discount. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. These regulations affect issuers of obligations, payors of interest, and certain recipients, and provide them with the guidance needed to comply with the law.

DATES: The regulations apply to payments of interest and original issue discount made after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Diane L. Kroupa of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC: LR: T) (202-566-3828 or 3829).

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1982, the **Federal Register** published temporary regulations (47 FR 51364) and proposed amendments (47 FR 51412) to the Income Tax Regulations (26 CFR Part 1) under section 6049 of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations to section 309 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 591). Several written comments responding to this notice were received. A public hearing was held on January 25, 1983. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision with several revisions in response to the comments. The revisions and the comments are discussed below.

Public Comments

The regulations provide generally that payors who pay interest and certain middlemen who receive interest on behalf of other persons must make an information return if the amount of interest paid to, or received on behalf of, such person aggregates $10 or more during the calendar year. If an amount of tax is withheld under section 3451 with respect to a payment of interest, however, an information return is required to be made irrespective of the amount of interest paid. The regulations define the term interest for purposes of information reporting. Commentators requested clarification that amounts paid with respect to commercial paper, repurchase agreements, and banker's acceptances constitute interest subject to reporting under section 6049. The regulations are amended to state specifically that such amounts constitute interest subject to reporting.

The definition of interest is also amended, due to commentators' requests for clarification, to provide that amounts that a governmental entity pays with respect to a refund of tax are not interest subject to reporting under section 6049. Interest paid on amounts held as a security deposit or interest on amounts held in escrow to guarantee performance on a contract or to provide security is also not subject to information reporting under section 6049 unless the amount is deposited in a bank or savings institution.

Merchandise or property provided to a payee as interest (or in lieu of a cash payment of interest) is interest subject to reporting under section 6049. The amount subject to reporting is the fair market value of such property.

The proposed regulations require insurance companies to report under section 6049 any interest paid when proceeds of a policy are delayed, whether or not the policy provides for an interest payment under those circumstances. Based on the comments received, the regulations are amended to require reporting of such interest only if the policy specifically provides that such interest be paid. Rev. Rul. 74-369, 1974-2 C.B. 393, holds that if interest is not paid pursuant to the terms of the policy, such interest is subject to reporting under section 6041 if it equals or exceeds $600.

Commentators also requested clarification as to whether an information return is required to be made with respect to payments made to individuals who are exempt from withholding under section 3451. The regulations are amended to clarify that information returns are required to be made with respect to interest paid to individuals who are exempt individuals for purposes of the withholding requirements. An individual who is exempt from withholding as a result to filing an exemption certificate under the withholding provisions is not thereby exempt from reporting. Thus, payors are required to make information returns reporting the amount of interest paid to such individuals.

The regulations provide that payments made to persons that are exempt recipients for purposes of the withholding requirements are not subject to reporting. Persons qualifying as exempt recipients are described in the regulations. If a recipient is exempt from withholding without filing an exemption certificate, payments made to the recipient are also exempt from reporting. Thus, in general, payments of interest made to a corporation are not subject to information reporting under section 6049.

The proposed regulations require an information return to be made to an exempt recipient, however, with respect to original issue discount. Commentators pointed out certain problems in connection with reporting original issue discount. The Treasury Department announced in a news release that the lack of information as to discount obligations would be considered reasonable cause for failure to comply until December 31, 1983, with the reporting requirements of original issue discount that were added by the Tax Equity and Fiscal Responsibility Act of 1982. The Service will publish a list of publicly traded original issue discount obligations that may be relied on in determining the amount of original issue discount subject to reporting. Beginning January 1, 1984, persons (other than the issuer of an obligation) will be able to rely on the Internal Revenue Service's publication to determine whether an obligation is issued with original issue discount and the amount of original issue discount subject to reporting. No information return is required to be made with respect to exempt recipients.

Comments received after the new release was published requested clarification of whether reporting on savings bonds and certain other discount obligations has been delayed. For long term discount obligations in registered form, information reporting was required prior to enactment of the Tax Equity and Fiscal Responsibility Act of 1982. Thus, these obligations are not within the scope of the deferred effective date for reporting on discount obligations. Savings bonds are not considered original issue discount obligations under section 1232A. Thus, reporting has not been delayed on savings bonds. For obligations issued at a discount and bearing stated interest, reporting is required on the stated interest at all times after December 31, 1982.

The proposed regulations provide that middlemen who pay interest on United States savings bonds, interest coupons, and short term discount obligations and

Federal agencies that pay interest on United States savings bonds may report on a transactional basis rather than on an annual aggregate basis. The proposed regulations require that the issuer's name, in addition to the middleman's name, be placed on the information return when an information return is made on a transactional basis. Certain commentators stated that this requirement complicated the processing of such transactions. The final regulations provide that only the middleman's name, and not the issuer's name, is required to be placed on the information return.

The proposed regulations provide that no information return is required with respect to tax exempt obligations. Commentators requested that payors be permitted to rely on their customer's written statement that an interest coupon is exempt and, therefore, not subject to information reporting. The regulations are amended to provide that a holder of a tax exempt obligation must provide written certification to the payor (other than the issuer of the obligation) that interest represented by the coupon is exempt from taxation. Payors may rely on such certifications in not making an information return with respect to such coupons. A statement that interest coupons are exempt from taxation on the envelope or "shell" commonly used by financial institutions to process such coupons, signed by the payee, will be sufficient for this purpose if the envelope is properly completed (*i.e.*, shows the payee's name, address, and taxpayer identification number). An issuer who receives the envelope or "shell" on which the payee has certified that the coupon is exempt from taxation when the obligation is not in fact tax exempt is required to make an information return.

Commentators also solicited guidance concerning the form to be used when reporting on short term discount obligations. The regulations are clarified to state that discount on short term discount obligations is treated as a payment of interest that should be reported on Form 1099–INT. This form should be used to report discount on short term government obligations as well as short term corporate obligations.

The proposed regulations provide that amounts paid to certain persons who are not United States persons will not be considered to be interest subject to reporting under section 6049. Under the proposed regulations, a payor may treat a payee as a foreign person for this purpose if the payor receives a statement, signed by the payee under penalties of perjury. In addition, if the payee is an individual, he must establish that he holds a passport from a country other than the United States. Various comments have indicated that the passport requirement is unduly burdensome, as many foreign individuals do not have passports and as, with respect to transactions effected other than in person, it is difficult administratively to confirm the possession of a non-United States passport. In response to these comments, the passport procedure has been eliminated.

The regulations have been amended to expand upon the types of information that should be provided on the statement certifying the status of a payee as a non-United States person. Specifically, the statement must contain the name, address, and taxpayer identification number (if any) of the payee. In response to a request by various commentators that a special Internal Revenue Service form be provided for this statement, the regulations have been modified to indicate that an optional form (W–8) will be provided by the Internal Revenue Service for this purpose.

Commentators also have requested clarification of the situations in which the statement described above must be provided to a payor. The regulations have been clarified to indicate that, in order to avoid reporting, the statement generally must be provided to the payor in each instance in which an exception to the definition of interest is dependent on a payee's status as a person who is not a United States person. However, the regulations have been amended to provide that the statement will not be required with respect to a particular payment made in a calendar year if, with respect to that or any other payment made by the payor to the payee in that year, the payor has received a Form 1001, a Form 4224 or other appropriate documentation indicating either that the payment is subject to reduced rates of tax under a treaty or is effectively connected with a United States trade or business of the payee. Similarly, the statement certifying the status of the payee as a foreign person is not required with respect to a particular payment made to a payee in a calendar year if the payor has actually withheld tax under subchapter A of chapter 3 of the Code on that or on any other payment made to the payee during that year.

Certain exceptions to the definition of interest are provided in the proposed regulations for amounts paid by various enumerated foreign entities (*e.g.*, a foreign corporation not engaged in trade or business in the United States during the calendar year). The regulations have been amended to provide more clearly that the exceptions apply only if one of the enumerated foreign entities is the obligor on an obligation with respect to which the amount in question is paid. Thus, the status of a paying agent or middleman as one of the enumerated foreign entities is not material to the issue of whether the amount paid by such paying agent or middleman is to be considered interest for purposes of reporting. Similarly, the fact that a paying agent or middleman is not one of such enumerated foreign entities will not cause an amount paid on an obligation issued by one of such entities to be recharacterized as interest subject to reporting.

Under the proposed regulations the person required to report is responsible for determining whether foreign currency, not readily convertible into United States dollars, is nevertheless indirectly convertible into United States dollars. The regulations have been amended to give the responsibility for making this determination to the Secretary.

Non-applicability of Executive Order 12291

The Commissioner has determined that this Treasury decison is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this regulation as it will not have a significant economic impact on a substantial number of small entities.

The impact of the requirement that information returns be made with respect to payments of interest and original issue discount is due to requirements imposed directly by the statute. In the areas in which the Service has been given significant discretion under the statute, the Service has exercised its discretion so as to minimize the potential impact of reporting while at the same time ensuring compliance with the statute.

For example, the statute permits regulations to be issued to require payors to furnish duplicate written statements to the payees of the amount of interest paid and the amount of tax withheld under section 3451, if any. The statute also permits regulations to be issued to require such payees to file this

duplicate copy of the information return with the payee's tax return. No regulations have been issued under this authority. Thus, payors are not required to furnish duplicate copies of the information return to the payee, and payees are not required to attach the information return to their tax return.

Drafting Information

The principal author of these regulations is Diane L. Kroupa of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department, however, participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.6001-1—1.6109-2

Income taxes, Administration and procedure, Filing requirements, Reporting and recordkeeping.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 5f is amended by removing §§ 5f.6049-1, 5f.6049-2, and 5f.6049-3, and 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The headings of §§ 1.6049-1, 1.6049-2, and 1.6049-3 are revised to read as follows:

§ 1.6049-1 Returns of information as to interest paid in calendar years before 1983 and original issue discount includible in gross income for calendar years before 1983

* * * * *

§ 1.6049-2 Interest and original issue discount subject to reporting in calendar years before 1983.

* * * * *

§ 1.6049-3 Statements to recipients of interest payments and holders of obligations to which there is attributed original issue discount in calendar years before 1983.

* * * * *

§ 1.6049-1 [Amended]

Par. 2. Section 1.6049-1 is amended—

1. By removing the phrase "calendar years after 1962" each place it appears in paragraph (a)(1) (i) and (iii) and inserting in lieu thereof the phrase "calendar year before 1983",

2. By removing the phrase "calendar year after 1970" each place it appears in paragraph (a)(1)(ii)(*a*), (iv), and in paragraph (a)(5), and inserting in lieu thereof the phrase "calendar year before 1983", and

3. By adding the phrase "and on or before December 31, 1982" immediately after the phrase "issued after May 27, 1969 (other than an obligation issued by a corporation pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter)" the place it appears in paragraph (a)(1)(ii)(*a*).

§ 1.6049-2 [Amended]

Par. 3. Section 1.6049-2 is amended by adding the phrase "and on or before December 31, 1982" immediately after the phrase "issued after May 27, 1969 (other than an obligation issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter)" the place it appears in paragraph (c)(2).

§ 1.6049-3 [Amended]

Par. 4. Section 1.6049-3 is amended—

1. By removing the phrase "calendar year after 1962" the place it appears in paragraph (b)(1)(i) and inserting in lieu thereof the phrase "calendar year before 1983", and

2. By adding the phrase "and prior to calendar year 1983" immediately after the phrase "calendar year after 1970" the place it appears in paragraph (b)(1)(ii).

Par. 5. New §§ 1.6049-4, 1.6049-5, and 1.6049-6 are added immediately after § 1.6049-3 to read as follows:

§ 1.6049-4 Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

(a) *Requirement of reporting*—(1) *In general.* Except as provided in paragraph (c) of this section, an information return shall be made by the persons described in paragraph (a)(2) of this section with respect to any payment of interest (as defined in § 1.6049-5) after December 31, 1982. Such return shall contain the information required in paragraph (b) of this section.

(2) *Persons required to make reports.* The persons required to make an information return under section 6049(a) and this section are—

(i) Every person who is required to deduct and withhold the tax imposed by section 3451;

(ii) Every person who makes a payment of interest aggregating $10 or more to any other person during a calendar year; and

(iii) Every person who collects (or otherwise acts as a middleman (as defined in paragraph (f)(4) of this section) with respect to) payments of interest on behalf of another person aggregating $10 or more during a calendar year.

(b) *Information to be reported*—(1) *Interest payments.* Except as provided in paragraph (b)(3) of this section, in the case of a payment of interest other than original issue discount treated as interest under § 1.6049-5(c), an information return on Forms 1096 and 1099 shall be made for the calendar year showing the aggregate amount of the payments, the name, address, and taxpayer identification number of the person to whom paid, the amount of tax deducted and withheld under section 3451 from the payments, and such other information as is required by the forms. An information return is required if the aggregate amount of interest is $10 or more unless the tax imposed by section 3451 is required to be withheld. In such event, the amount required to be shown is the amount subject to withholding even if such amount is less than $10.

(2) *Original issue discount.* Except as provided in paragraph (b)(3) of this section, in the case of original issue discount, an information return on Forms 1096 and 1099 shall be made for each calendar year of any holder of an obligation as to which there is original issue discount includible in gross income aggregating $10 or more (determined, if semiannual record date reporting is being used, under § 1.6049-1(a)(1)(ii)(*b*)(*1*), by treating each holder as holding the obligation on every day it was outstanding during the calendar year). An information return shall be made, however, in any case in which an amount of tax is required to be deducted and withheld under section 3451. In such case, the amount required to be reported is the amount subject to withholding even if the amount of original issue discount includible in gross income is less than $10. With respect to an obligation described in § 1.1232-3A (e) or (f) (relating respectively to deposits in banks and similar financial institutions and to face-amount certificates), § 1.6049-1(a)(1)(ii)(*d*) and the last sentence of § 1.6049-1(a)(1)(ii)(*a*)(*2*) shall apply. The information return shall show—

(i) The name, address, and taxpayer identification number of each record holder for whom an amount of original issue discount is includible in gross income;

(ii) The account, serial, or other identifying number of each obligation with respect to which a return is being made;

(iii) The aggregate amount of original issue discount includible in the gross income of each holder for the period during the calendar year for which the

return is made (or, if the aggregation rules of § 1.6049-1(a)(1)(ii)(*b*)(*2*) are being used, the aggregate amount or original issue discount for the period such holder held the obligations). If, however, the semiannual record date reporting rules are being used under § 1.6049-1(a)(1)(ii)(*b*)(*1*), the aggregate amount shall be determined by treating each record date holder as if he held each obligation on every day it was outstanding during the calendar year. For purposes of this section, an obligation shall be considered to be outstanding from the date of original issue (as defined in § 1.1232-3(b)(3));

(iv) The amount of tax withheld under section 3451, if any;

(v) The name and address of the person filing the return: and

(vi) Such other information as is required by the forms. Section § 1.6049-1(a)(1)(ii) (*b*) and (*c*) shall apply for purposes of this paragraph.

(3) *Returns made by middleman.* Every person acting as a middleman (as defined in paragraph (f)(4) of this section) shall make an information return on Forms 1096 and 1099 for the calendar year. In the case of interest payments (other than original issue discount), the return shall show the aggregate amount of such interest, the name, address, and taxpayer identification number of the person on whose behalf received, the amount of tax withheld under section 3451, if any, and such other information as is required by the forms. In the case of original issue discount, the return shall show the information required to be shown for the actual owner, as described in paragraph (b)(2) of this section. A middleman shall make an information return regardless of whether the middleman receives a Form 1099. A middleman shall not be required to make an information return if the payments of interest aggregate less than $10 unless such amount is subject to withholding under section 3451. If an amount of tax is required to be deducted and withheld under section 3451, a return shall be made irrespective of the amount of the payment and irrespective of whether the payment is made to an exempt recipient described in paragraph (c)(1)(ii) of this section.

(4) *Returns made with respect to payments on certificates of deposit issued in bearer form.* Every person carrying on the banking business who makes payments of interest to another person (whether or not aggregating $10 or more) during a calendar year with respect to a certificate of deposit issued in bearer form shall make an information return on Forms 1096 and 1099. The information return shall show the information required in § 1.6049-1(a)(1)(vi) (*a*) through (*e*) inclusive and a statement as to the amount of tax withheld under section 3451, if any.

(c) *Information returns not required*—(1) *Payment to exempt recipient.* (i) In the case of a payment to a person described in paragraph (c)(1)(ii) of this section, no return shall be required to be made unless such payment is made by a person required to make a return by paragraph (a)(2)(i) of this section (relating to persons required to withhold tax). Thus, a person who withholds tax under section 3451 is required to make an information return regardless of whether the payee is an exempt recipient described in paragraph (c)(1)(ii) of this section.

(ii) An information return shall not be required with respect to payments made to—

(A) A corporation as defined in section 7701(a)(3), whether domestic or foreign,

(B) An organization exempt from taxation under section 501(a) or an individual retirement plan,

(C) The United States or a State, the District of Columbia, a possession of the United States, or a political subdivision or a wholly-owned agency or instrumentality of any one or more of the foregoing,

(D) A foreign government, a political subdivision thereof, or an international organization,

(E) A foreign central bank of issue (as defined in § 1.895-1(b)(i) to be a bank which is by law or government sanction the principal authority, other than the government itself, issuing instruments intended to circulate as currency),

(F) A dealer in securities or commodities required to register as such under the laws of the United States or a State,

(G) A real estate investment trust (as defined in section 856),

(H) An entity registered at all times during the taxable year under the Investment Company Act of 1940.

(I) A common trust fund (as defined in section 584(a)).

(J) A nominee or custodian.

(K) A financial institution such as a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or other similar organization.

(L) A broker as defined in section 6045(c), or

(M) Any trust which—

(*1*) Is exempt from tax under section 664(c) (*i.e.*, a charitable remainder annuity trust or a charitable remainder unitrust), or

(*2*) Is described in section 4947(a)(1) (relating to a certain charitable trust).

A payor who may treat any person as an exempt recipient for withholding purposes as described in § 31.3452(c)-1 (b) through (p) without requiring such person to file an exemption certificate may treat the persons listed in this subdivision (ii)(A) through (M) as an exempt recipient for information reporting purposes. A payor shall make an information return with respect to an individual who files an exemption certificate to be exempt from withholding under section 3451. The individual is not exempt for reporting purposes. A payor shall make an information return with respect to a trust which is an exempt individual under section 3452(b)(4) and § 31.3452(b)-1(d). See § 1.6049-4(c)(2) providing that the trust satisfies the reporting requirements under section 6049 if the trust files a Form 1041 and furnishes a beneficiary a Form K-1 containing the information required to be shown on the form, including amounts withheld under section 3451.

(iii) The application of this paragraph (c) may be illustrated by the following examples:

Example (1). In 1980, Corporation Y issued 10-year debentures with 9 percent interest coupons payable semiannually on June 30 and December 31. Individual F, who is exempt from withholding under section 3451, presents a coupon for payment at Bank M on the interest payment date. Bank M transmits the coupon to Bank N, which in turn presents the coupon to Corporation Y for payment. Bank M is required to make an information return with respect to the payment to individual F under § 1.6049-4(a)(2)(iii). Bank N is not required to make an information return with respect to the payment to Bank M, and Corporation Y is not required to make an information return with respect to the payment to Bank N because Banks M and N are exempt recipients described in § 1.6049-4(c)(1)(ii)(K).

Example (2). Broker E acquires a bond issued in 1980 by the United States Treasury through the Bureau of Public Debt. Broker E sells interests in the bond to the public after December 31, 1982. A purchaser may acquire an interest in any interest payment falling due under the bond or an interest in the principal of the bond. The bond is held by Custodian H for the benefit of the persons acquiring these interests. Custodian H files an exemption certificate claiming exemption from withholding under § 31.3452(c)-1(n). On receipt of interest and principal payments under the bond, Custodian H transfers the amount received to the person whose ownership interest corresponds to the component giving rise to the payment. Under section 1232B, each bond component is treated as a bond issued with original issue discount equal to the excess of the stated redemption price at maturity over the

purchase price of the bond component. Accordingly, H is required to make an information return setting forth the information required in § 1.6049-4(b)(2) with respect to each holder of an interest in the bond. The Bureau of Public Debt is not required to make an information return since it made payment to Custodian H who is an exempt recipient described in § 1.6049-4(c)(1)(ii)(J).

Example (3). On January 1, 1984, the United States Treasury through the Bureau of Public Debt issues $1 million of obligations with a maturity of 1 year or less. The obligations are represented by entries on records maintained through Federal Reserve banks and branches for the account of member banks of the Federal Reserve system. Bank O, which is a member bank of the Federal Reserve system, tenders an offer for $100,000 of the obligations. The Federal Reserve opens an account for Bank O showing that it owns $100,000 of the obligations. When Bank O sells any of these obligations to an investor, it maintains a book entry account showing such investor's ownership. Upon maturity, the United States Treasury credits the amount due the Federal Reserve bank holding an interest in the obligation. The Federal Reserve bank in turn credits the account of Bank O, which then credits the accounts of the persons owning the obligations. Bank O must make the information return required under section 6049 and this section with respect to the payments made by it to persons not described in § 1.6049-4(c)(1). Thus, if, at maturity of the obligation, Bank O held an obligation on its books for D, an individual, Bank O is required to make an information return with respect to the payment made to individual D. Neither the Bureau of Public Debt nor the Federal Reserve bank is required to make an information return since such payments were made to persons described in § 1.6049-4(c)(1)(ii).

Example (4). Assume the same facts as example (3) except a brokerage house buys the $100,000 of obligations through the Federal Reserve bank. The Federal Reserve maintains a book entry account showing that a member bank holds $100,000 of obligations for a brokerage house. The brokerage house sells these obligations to its customers. The brokerage house holds $50,000 of the obligations for a pension trust, $30,000 of the obligations for Corporation Z, and $10,000 of the obligations each for Individuals I and J. The brokerage house is required to make an information return with respect to the payments of interest at maturity on the obligations it holds for its customers who are not described in § 1.6049-4(c)(1). Thus, the brokerage house is required to make an information return with respect to the payments made to Individuals I and J. No information return is required with respect to the payments made to the pension trust or Corporation Z because such persons are exempt recipients described in § 1.6049-4(c)(1)(ii). The Bureau of Public Debt and the Federal Reserve bank are not required to make an information return because they made payment to a person described in § 1.6049-4(c)(1)(ii).

(2) *Payments by certain middlemen.* An information return shall not be required if—

(i) The record owner is required to file a fiduciary return on Form 1041 disclosing the name, address, and taxpayer identification number of the actual owner, and furnishes Form K-1 to each actual owner containing the information required to be shown on the form, including amounts withheld under section 3451;

(ii) The record owner is a nominee of a banking institution or trust company exercising trust powers, and such banking institution or trust company is required to file a fiduciary return on Form 1041 disclosing the name, address, and identifying number of the actual owner, and furnishes Form K-1 to each actual owner containing the information required to be shown on the form, including amounts withheld under section 3451;

(iii) The record owner is a banking institution or trust company exercising trust powers, or a nominee thereof, and the actual owner is an organization exempt from taxation under section 501(a) for which such banking institution or trust company files an annual return, but only if the name, address, and taxpayer identification number of the record owner is included on or with the Form 1041 fiduciary return filed for the estate or trust or the annual return filed for the tax exempt organization.

(d) *Special rules*—(1) *Aggregation of payments.* For purposes of paragraph (b) of this section, until such time as the Commissioner determines that it is feasible to require aggregation of payments on two or more accounts, insurance contracts, or investment certificates, and, until this section is amended accordingly to provide for reporting on an aggregate basis, the requirement for filing Form 1099 under this section will be met if a person making payments of interest subject to reporting files a separate Form 1099 with respect to each account, insurance contract, or investment certificate. In the case of obligations described in section 6049(b)(1)(A), separate Forms 1099 may be filed as provided in the preceding sentence with respect to holdings in different issues.

(2) *Treatment of original issue discount.* The amount of original issue discount subject to reporting under section 6049 shall be the amount of original issue discount includible in the gross income of any holder that is treated as paid under § 1.6049-5(c).

(3) *Conversion of amounts paid in foreign currency into United States dollars*—(i) *Convertible foreign currency.* In the event that an amount of interest or an amount of original issue discount on an obligation with a maturity at issue of not more than 1 year is paid or credited in convertible foreign currency, the amount shall be converted into United States dollars, and the amount subject to reporting under section 6049 shall be computed on such United States dollar amount, on the date of the payment or crediting. For this purpose, the term "convertible foreign currency" means currency of a foreign country that either is readily convertible into United States dollars or is of a type the Secretary determines is to be treated as a convertible foreign currency from the date specified in a notice of such determination published in the **Federal Register.**

(ii) *Nonconvertible foreign currency.* [Reserved]

(iii) *Original issue discount on foreign currency obligations with a maturity at issue of more than 1 year.* [Reserved]

(4) *Determination of person to whom interest or original issue discount is paid or for whom it is received.* Section 1.6049-1(a)(3) and (4) shall apply with respect to payments of interest and original issue discount after December 31, 1982.

(5) *Payments by governmental units.* In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest or original issue discount (or the person appropriately designated for purposes of this section) shall make the returns and statements required under section 6049.

(6) *When payment deemed made*—(i) *In general.* Except as provided in paragraph (d)(6)(ii) of this section, for purposes of section 6049, interest is deemed to have been paid when it is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition.

(ii) *Instruments paid on presentment or demand.* In the case of a payment made on an obligation described in paragraph (e)(2) of this section (relating to transactional reporting), interest is deemed to have been paid at the time the obligation is presented for payment. For example, interest represented by a coupon detached from a bond is considered paid for purposes of section 6049 when the coupon is presented for payment.

(7) *Permission to submit information required by Form 1099 on magnetic tape.*

For rules relating to permission to submit the information required by Form 1099 on magnetic tape or other media, see § 1.9101–1.

(8) *Obligations that are not exempt from taxation.* When an issuer of an obligation that is not exempt from taxation receives an envelope or "shell", signed by the payee, stating that interest on the obligation is exempt from taxation under section 103(a) (as described in § 1.6049–5(b)(1)(ii)), the issuer shall make an information return under section 6049. The information return shall show the name, address, and taxpayer identification number of the person who signed the statement claiming that interest on the obligation is exempt from taxation, the amount of interest paid, and such other information as is required by the form. An information return is required regardless of the amount of interest. The issuer shall also furnish a written statement to such person showing the information required by § 1.6049–6(b).

(9) *Savings bonds*—(i) *In general.* A person who makes payment on a United States savings bond when the bond is presented for payment shall report the difference between the amount to be paid and the amount paid for the bond. The amount subject to reporting shall not be reduced to take into account—

(A) Amounts previously included in the income of a holder as a result of an election under section 454 to include annually the increase in the redemption price of the bond; or

(B) Amounts accrued prior to transfer of the bond where the bond has been reissued in the name of the person presenting the bond for payment.

With respect to a savings bond that is reissued in another person's name, the amount subject to reporting when the bond is reissued is the amount of interest that has accrued. With respect to a savings bond that is exchanged in a tax-deferred transaction (as described in section 1037), the amount subject to reporting is the amount of cash paid to the holder at the time of the transaction.

(ii) *Examples.* The application of the provisions of paragraph (d)(10)(i) of this section may be illustrated by the following examples:

Example (1). On June 10, 1943, A purchases a $50 Series E savings bond. The amount paid for the savings bond is $37.50. A elects under section 454 to include the increase in the redemption price of the bond annually in income. A presents the bond to Bank M to be cashed on July 1, 1983. The amount to be paid on the bond on that date is $204.96. Bank M is required to make an information return under section 6049 showing that it paid $167.46 (the difference between $204.96 and $37.50) of interest, without regard to A's election to include annually the increase in the redemption price of the bond.

Example (2). On December 1, 1976, B purchases a $500 Series E savings bond. The amount paid for the bond is $375. On August 1, 1984, the bond is reissued by the Bureau of Public Debt by deleting B's name and inserting the name of B's child. At the time of reissue, the redemption value of the bond is $1,015.80. The accrued interest is $640.80 (the difference between $1,015.80 and $375). The reissue is a taxable transaction, and B must include in income the accrued interest at the time of reissue. The Bureau of Public Debt is required to make an information return under section 6049 showing that it paid $640.80 of interest to B.

Example (3). Assume the same facts as in example (2) except that B exchanges the bond for a Series HH savings bond in the amount of $1,000 issued in B's name. The exchange is tax-deferred under section 1037. The Bureau of Public Debt stamps a legend on the bond stating that interest of $625 has been deferred. The amount of $15.80 is paid to B. The Bureau of the Public Debt must make an informatiion return showing that it paid $15.80 of interest to B.

Example (4). Assume the same facts as in example (3) except that the exchange is not a tax-deferred exchange. The Bureau of the Public Debt must make an information return showing that it paid $640.80 of interest to B.

(e) *Transactional reporting*—(1) *In general.* An information return required to be made under paragraph (b) of this section may be made on a transaction-by-transaction basis, rather than on an annual aggregation basis, if payment described in paragraph (e)(2) of this section is made by a person described in paragraph (e)(3) of this section.

(2) *Payments subject to transactional reporting.* An information return may be made on a transactional basis if payment is made on—

(i) A United States savings bond,

(ii) An interest coupon (but see § 1.6049–5(b) which provides that no information return is required to be made with respect to an interest coupon that is exempt from taxation),

(iii) A discount obligation having a maturity at issue of 1 year or less, including commercial paper and short-term government obligations defined in section 1232(a)(3), and

(iv) Any obligation similar to those described in subdivisions (i) through (iii). The information return with respect to payments on the types of obligations described in this paragraph shall be made on Form 1099–INT. A payor may include all interest paid in one transaction on one information return, irrespective of whether obligations of different issuers are paid as part of the transaction.

(3) *Persons subject to transactional reporting.* A person may make a return on a transactional basis if the person is—

(i) A middleman (as defined in paragraph (f)(4) of this section) who is required to make an information return under paragraph (b)(3) of this section with respect to any payment described in paragraph (e)(2) of this section, or

(ii) A federal agency making payments on a United States savings bond.

(4) *Transaction defined.* For purposes of this paragraph (e), a transaction means a payment at one time on one or more obligations. For example, if an individual who is exempt from withholding under section 3451 presents at one time five Series EE bonds on each of which $3 of interest has accrued, $15 of interest will be paid as part of the transaction. Accordingly, an information return is required under § 1.6049–4 (a)(2)(iii) because the interest paid in the transaction exceeds $10. If only three of the savings bonds were presented, however, no return would be required even if the remaining two bonds were redeemed the following day. See paragraph (a)(2)(i) of this section for the requirement that an information return be made if any amount of tax is withheld under section 3451.

(5) *Information required.* The information return for any transaction under paragraph (e) of this section shall show the following:

(i) The name, address, and taxpayer identification number of the person to whom the interest is paid;

(ii) The name and address of the person filing the form;

(iii) The amount of interest paid;

(iv) The amount of tax withheld under section 3451 if any; and

(v) Such other information as is required by the form.

(f) *Definitions.* For purposes of section 6049, this section, and §§ 1.6049–5 and 1.6049–6—

(1) *Person.* The term "person" includes any governmental unit, international organization, and any agency or instrumentality thereof. Therefore, interest paid by one of these entities must be reported unless one of the exceptions under section 6049 applies.

(2) *Natural person.* The term "natural person" means any individual, but shall not include a partnership (whether of not composed entirely of individuals), a trust, or an estate.

(3) *Obligation.* The term "obligation" includes bonds, debentures, notes, certificates, and other evidences of indebtedness regardless of how denominated.

(4) *Middleman*—(i) *In general.* The term "middleman" means any person, including a financial institution as described in paragraph (c)(1)(K) of this

section, a broker as defined in section 6045(c), or a nominee, who makes payment of interest for, or collects interest on behalf of, another person, or otherwise acts in a capacity as intermdiary between a payor and a payee. For example, a person (other than an issuer of an obligation) who makes payment on an interest coupon of the obligation to another person is a middleman, irrespective of whether such person purchases the coupon for his own account, accepts the coupon as agent for the payee, or otherwise deals with the coupon. The term "middleman" also includes a trustee, including a corporate trustee of a trust where the trust is the payee. See § 1.6049-4(c)(2) providing that the trustee does not have to make an information return on Form 1099 to a beneficiary if the trustee is required to file Form 1041 and furnishes Form-K-1 to the beneficiary showing the information required to be shown on the form, including amounts withheld under section 3451. A person shall not be considered to be a middleman as to any portion of an interest payment which is actually owned by another person whose name is also shown on the information return filed with respect to such interest payment. Thus, in the case of a savings account jointly owned by a husband and wife, the husband will not be considered as acting in the capacity of a middleman with respect to his wife if his wife's name is included on the information return filed by the payor with respect to the interest.

(ii) *Example.* The application of the provisions of paragraph (f)(4) of this section may be illustrated by the following example:

Example. In January, 1984, Broker B purchases on behalf of its customer, Individual A, and obligation issued by partnership RR in a public offering on that date. Broker B holds the obligation for A throughout 1984. The obligation bears no stated interest and matures in January 1986. Broker B is a middleman with respect to the obligation of RR that it holds for A. Broker B is required to make an information return showing the amount of original issue treated as paid to A during 1984 under § 1.6049-5(c).

(g) *Time and place for filling a return for the payment of interest*—(1) *Annual return.* Except as provided in paragraph (g)(2) of this section, the returns required under this section for any calendar year for the payment of interest shall be filed after September 30 of such year, but not before the payor's final payment to the payee for the year, and on or before February 28 of the following year. Such returns shall be filed with the appropriate Internal Revenue Service Center, the address of which is listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1.

(2) *Transactional return.* In the case of a return under paragraph (e) of this section, relating to returns on a transactional basis, such return shall be filed at any time but in no event later than February 28 of the year following the calendar year in which the interest was paid. The return shall be filed with the appropriate Internal Revenue Service Center, the address of which is listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1

§ 1.6049-5 Interest and original issue discount subject to reporting after December 31, 1982

(a) *interest subject to reporting requirement.* For purposes of §§ 1.6049-4, 1.6049-6 and this section, except as provided in paragraph (b) of this section, the term "interest" means—

(1) Interest on an obligation—

(i) In registered form (as defined in § 5f.103-1(c)), or

(ii) Of a type offered to the public. Principles consistent with § 5f.163-1 shall be applied to determine whether an obligation is of a type offered to the public.

(2) Interest on deposits with persons carrying on the banking business. Such term shall include deposits evidenced by time certificates of deposit issued in any amount whether negotiable or non-negotiable. The term "interest" includes payments to a mortgage escrow account and amounts paid with respect to repurchase agreements and banker's acceptances. Property which the payee receives from the payor as interest (or in lieu of a cash payment of interest) shall be interest for purposes of section 6049. The amount subject to reporting is the fair market value of such property.

(3) Amounts, whether or not designated as interest, paid or credited by mutual savings banks, savings and loan associations, building and loan associations, cooperative banks, homestead associations, credit unions industrial loan associations or banks, or similar organizations, in respect of deposits, face amount certificates, investment certificates, or withdrawable or repurchasable shares. Thus, even though amounts paid or credited by such organizations with respect to deposits are designated as "dividends", such amounts are included in the definition of interest for purposes of section 6049. The term "interest" includes payments to a mortgage escrow account and amounts paid with respect to repurchase agreements. Property which the payee receives from the payor as interest (or in lieu of a cash payment of interest) is "interest" for purposes of section 6049. The fair market value of such property is the amount subject ot reporting.

(4) Interest on amounts held by insurance companies under an agreement to pay interest thereon. Any increment in value of "advance premiums" "prepaid premiums", or "premium deposit funds" which is applied to the payment of premiums due on insurance policies, or made available for withdrawal by the policyholder, shall be considered interest subject to reporting. Interest that an insurance company pays pursuant to an agreement with the policyholder to a beneficiary because the payment due has been delayed is interest subject to reporting. Interest subject to reporting also includes interest paid by insurance companies with respect to policy "dividend" accumulations (see sections 61 and 451 and the regulations thereunder for rules as to when such interest is considered paid), and interest paid with respect to the proceeds of insurance policies left with the insurer. The so-called "interest element" in the case of annuity or installment payments under life insurance or endowment contracts does not constitute interest for purposes of section 6049.

(5) Interest on deposits with brokers as defined in section 6045(c) and the regulations thereunder. Any payment made in lieu of interest to a person whose obligation has been borrowed in connection with a short sale or other similar transaction is subject to reporting under section 6049.

(6) Interest paid on amounts held by investment companies as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. section 80 a-3) and on amounts invested in other pooled funds or trusts. For purposes of section 6049, interest paid on amounts invested in pooled funds or trusts, such as mortgage pass-through certificates or mortgage participation certificates, shall be considered to be the interest paid as stated on the certificate, and shall not be the interest on any notes or obligations underlying such certificates. See § 1.6049-4(c)(2) providing that in the case of interest paid on amounts invested in such pooled funds or trusts, the reporting, requirements of section 6049 shall be considered satisfied if the issuer files Form 1041 as the fiduciary of a grantor trust and furnishes Form K-1 to each beneficiary, containing the information required by the form, including amounts withheld under section 3451. See § 31.3454(a)-1(a)(7) for the provisions relating to withholding.

(b) *Interest excluded from reporting requirement*—(1) *In general.* The term "interest" does not include—

(i) Interest on any obligation issued by a natural person as defined in § 1.6049-4(f)(2) irrespective of whether such interest is collected on behalf of the holder of the obligation by a middleman.

(ii) Interest on any obligation if such interest is exempt from taxation under section 103(a), relating to certain governmental obligations, or interest which is exempt from taxation under any other provision of law without regard to the identity of the holder. The holder of a tax exempt obligation must provide written certification to the payor (other than the issuer of the obligation) that the obligation is exempt from taxation. A statement that interest coupons are tax exempt on the envelope or "shell" commonly used by financial institutions to process such coupons, signed by the payee, will be sufficient for this purpose if the envelope is properly completed (*i.e.*, shows the name, address, and taxpayer identification number of the payee). A payor may rely on such written certification in treating such interest as tax exempt for purposes of section 6049. See § 1.6049-4(d)(8) with respect to the requirement that the issuer of a taxable obligation shall make an information return if such issuer receives and envelope which improperly claims that the interest coupons contained therein are tax exempt.

(iii) Interest on amounts held in escrow to guarantee performance on a contract or to provide security. However, interest on amounts held in escrow with a person described in paragraph (a) (2) or (3) of this section is interest subject to reporting under section 6049.

(iv) Interest that a governmental unit pays with respect to tax refunds.

(v) Interest on deposits posted for security, such as deposits posted with a public utility company. However, interest on deposits posted for security with a person described in paragraph (a) (2) or (3) of this section is interest subject to reporting under section 6049.

(vi) Any amount paid to—

(A) Any nonresident alien or foreign corporation, if the amount paid is subject to withholding of tax under subchapter A of chapter 3 of the Code by the person paying such amount, or

(B) Any nonresident alien or foreign corporation, if the amount paid would be subject to withholding of tax under subchapter A of chapter 3 of the Code by the person paying such amount but for the fact that—

(*1*) Under section 862(a)(1) such amount is considered to be from sources outside the United States,

(*2*) The amount is exempted from withholding of tax by reason of the provisions of a tax treaty,

(*3*) The amount of tax is exempt from withholding of tax under section 1441(a) or 1442(a) by reason of the application of section 1441(c) and paragraph (a) or (f) of § 1.1441-4, or

(*4*) The amount is original issue discount (within the meaning of section 1232 (b)(1)).

(vii) Any amount paid with respect to an obligation of, or a deposit with, an issuer or other obligor which is—

(A) A foreign government or international organization or any agency or instrumentality thereof,

(B) A foreign central bank of issue,

(C) A foreign corporation not engaged in trade or business in the United States within the calendar year of the payment,

(D) A foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 of the Code if such an amount were paid to a person who is not a United States person, or

(E) A partnership which is not engaged in a trade or business in the United States within the calendar year of the payment and which is composed in whole of nonresident alien individuals or persons described in paragraph (b)(1)(vii) (A) through (C) of this section.

(viii) Any amount on which the person making the payment is required to deduct and withhold a tax under section 1451 (relating to tax-free convenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

(ix) Any amount not otherwise described in paragraph (b)(1) of this section which is paid outside the United States and which is income from sources outside the United States within the meaning of section 862(a)(1).

(2) *Amount paid to persons who are not United States persons.* (i) A payor may treat an amount as an amount described in paragraph (b)(1)(vi)(A) of this section if such payor in fact withholds tax on such amount under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3.

(ii) Unless it has actual knowledge that the payee of an amount is a United States person, a payor may treat such amount as an amount described in paragraph (b)(1)(vi)(B)(2) of this section if with respect to such amount the payor is provided by the payee with a Form 1001 in accordance with § 1.1441-6 (b) or (c), or with a certificate or corresponding letter in accordance with § 1.1441-6(c)(3).

(iii) Unless it has actual knowledge that the payee of an amount is a United States person, a payor may treat such amount as an amount described in paragraph (b)(1)(vi)(B)(3) of this section if with respect to such amount it has received a Form 4224 from the payee in accordance with § 1.1441-4(a) or has on file with respect to such amount a notice described in § 1.1441-4(f)(2)(ii).

(iv) Unless it has actual knowledge that the payee of an amount is a United States person, a payor may treat such amount as an amount described in paragraph (b)(1)(vi)(B) (*1*) or (*4*) of this section if it receives a statement, signed by the payee under penalties of perjury, certifying that the payee is not a United States person, or, in the case that the payee is an indivudual, that he is neither a citizen nor a resident of the United States. In addition to such certification, the statement shall contain the name of the payee, the address of the payee, and the taxpayer identification number (if any) of the payee. The address provided for an individual shall be that of his permanent residence; the address provided for a partnership or corporation shall be the address of its principal office; and the address provided for a trust or an estate shall be the address of the permanent residence or principal office of any fiduciary of the trust or estate. The statement may be made, at the option of the payor on a Form W-8 or on a form prepared by the payor which is substantially similar to Form W-8. Blank copies of Form W-8 will be supplied to payors upon request to the district director. The statement must be received by the payor in the calendar year in which the payment is made or collected or in either of the preceding 2 calendar years. The payor, however, may require the statement from the payee each time it makes a payment to, or collects an amount on behalf of, the payee. The payor shall retain the statement for at least 4 years following the end of the last calendar year during which the amount to which the statement relates, is paid or collected. If the person providing the statement becomes a United States citizen or resident during the period to which the statement relates such person shall notify the payor in writing within 30 days of such change in status. In the case of a trust or an estate, the statement shall be provided by a fiduciary, as defined in section 7701(a)(6), on behalf of the trust or estate; and in the case of a partnership, the statement shall be provided by any general partner on behalf of the

partnership. The payor need not receive the statement described in this paragraph (b)(2)(iv) with respect to an amount paid to a payee druing a calendar year if, with respect to any other payment to such payee in that year, the payor has withheld tax under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3 or if, with respect to any amount that is or may be paid to the payee during that year, the payor has received the documentation described in paragraph (b)(2) (ii) or (iii) of this section in accordance with the provisions of § 1.1441–4 or § 1.1441–6.

(3) *Amounts paid by certain foreign obligors and amounts from sources outside the United States.* (i) The provisions of this paragraph (b)(3)(i) apply with respect to determinations made by paying agents and middlemen as to whether an amount is paid with respect to an obligation or deposit of an entity described in paragraph (b)(1)(vii) of this section and as to whether an amount is income from sources outside the United States for purposes of paragraph (b)(1)(ix) of this section. Absent actual knowledge to the contrary, a paying agent or middleman may treat an entity as a foreign government, an international organization, or a foreign central bank of issue if the paying agent or middleman could treat such entity as an exempt recipient without requiring an exemption certificate as provided in § 31.3452(c)–1 (g), (h), or (i). Absent actual knowledge to the contrary, a middleman generally may treat a corporation as a foreign corporation if its name reasonably so indicates and may treat such corporation as a corporation either which is not engaged in trade or business within the United States or the interest payments of which would be exempt from withholding under subchapter A of chapter 3 of the Code if such payments were made to a person who is not a United States person. However, a paying agent of, or a middleman having a contractual relationship with, the foreign corporation with respect to the payment or collection of an amount must receive a statement, signed under penalties of perjury, from the secretary or other authorized representative of the foreign corporation either that the corporation is not, or does not expect during the calendar year of payment to be, engaged in trade or business in the United States or that the interest paid by the foreign corporation would be exempt from withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person who is not a United States person. Absent actual knowledge to the contrary, a middleman generally may treat a domestic corporation as as corporation the interest payments of which would not be subject to withholding under subchapter A of chapter 3 of the Code if such payments were made to a person who is not a United States person if an annual report, offering circular, or other standard source of financial information published by the corporation reasonably so indicates. However, a paying agent of, or middleman having a contractual relationship with, a domestic corporation with respect to the payment or collection of an amount may, absent actual knowledge to the contrary, treat a domestic corporation as such a corporation only if the secretary or other authorized representative of the corporation provides the paying agent or middleman with a statement, signed under penalties of perjury, that interest paid by such corporation would not be subject to withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person who is not a United States person. A paying agent or middleman may, absent actual knowledge to the contrary, treat a partnership as a partnership which is not engaged in trade or business in the United States during the calendar year of payment and which is composed in whole of nonresident alien individuals or persons described in paragraph (b)(1)(vii) (A), (B), or (C) of this section if it receives a statement, signed under penalties of perjury, from any general partner of the partnership that the partnership is not, and is not expected during the calendar year of the payment to be, engaged in trade or business in the United States and that all of its partners are, and are expected during the calendar year of payment to be, nonresident alien individuals or persons described in paragraph (b)(1)(vii) (A), (B), or (C) of this section. A statement received by a paying agent or middleman in accordance with the provisions of this paragraph (b)(3) must be provided to such paying agent or middleman in the calendar year in which a payment is made or collected or in either of the 2 preceding calendar years. The paying agent or middleman may, however, require such a statement from the corporation or partnership each time it makes a payment for the corporation or partnership. The paying agent or middleman shall retain the statement for at least 4 years following the end of the last calendar year during which an amount to which the statement relates is paid or collected. If after providing such statement the status of the corporation or partnership changes from that reflected in the statement, the corporation or partnership shall notify the paying agent or middleman within 30 days of such change in status.

(ii) Notwithstanding the provisions of paragraph (b)(1)(vii) of this section, amounts described in such paragraph are considered to be interest for purposes of this section when paid within the United States to a United States person. In such case, the person required to report under section 6049 is the payor which makes the payment within the United States. For purposes of this paragraph, the term "United States person" is defined in section 7701(a)(30).

(iii) Paragraph (b)(3)(ii) of this section shall not apply with respect to an international organization (as described in paragraph (b)(1)(vii)(A) of this section) which is paying interest within the United States if the international organization is an organization of which the United States is a member and which enjoys immunity with respect to the inviolatability of its archives pursuant to an international agreement having full force and effect in the United States.

(iv) For purposes of paragraph (b)(3)(ii) of this section, a payor may, unless it has actual knowledge to the contrary, treat a person to whom it makes a payment within the United States as a person who is not a United States person if, during the calendar year of payment, it withholds tax on any amount paid to such person under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3 or, if, with respect to any amount which is or may be paid to such person during that calendar year, it has received documentation described in paragraph (b)(2) (ii), (iii), or (iv) of this section in accordance with the provisions of such paragraphs and of § 1.1441–4 or § 1.1441–6.

(4) *Examples.* The application of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Corporation X is a foreign corporation which is not engaged in trade or business in the United States during the calendar year. A, a United States citizen, holds bonds of Corporation X that were issued in a public offering. A collects the interest on such bonds by presenting the coupons to M, a paying agent of Corporation X whose office is in the United States. Amounts paid with respect to obligations of Corporation X are generally not considered to be interest for purposes of section 6049 since Corporation X is an entity described in paragraph (b)(1)(vii)(C) of this section. However, because M makes a payment of such amounts within the United States to a

United States person, the payment by M is considered to be a payment of interest for purposes of section 6049, and M is required to report under section 6049.

Example (2). The facts are the same as in example (1) except that A presents his coupons directly to Corporation X at its office in the United States. In accordance with paragraph (b)(3)(ii) of this section, the payment by Corporation X with respect to the coupons is considered to be a payment of interest for purposes of section 6049, and Corporation X is required to report.

Example (3). The facts are the same as in example (1) except that A is a non-resident alien individual. A provides M with the statement described in paragraph (b)(2)(iv) of this section, which certifies that A is not a United States citizen or resident. Unless M has actual knowledge that the statement provided by A is false, M may rely on such statement and is not required to report under section 6049.

Example (4). The facts are the same as in example (1) except that Corporation X is engaged in trade or business in the United States and 50 percent or more of its gross income for the preceding 3-year period described in section 861(a)(1)(C) has been income which is effectively connected to its United States trade or business. Corporation X is not a beneficiary of an income tax treaty to which the United States is a party. A presents its coupons for payment directly to Corporation X at its office outside the United States. The amount paid by Corporation X is not excluded from the definition of interest for purposes of section 6049 under either paragraph (b)(1)(vii) (C) or (D) of this section since Corporation X is engaged in trade or business in the United States and since all or a portion of the interest paid by it would be subject to withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person who is not a United States person. Therefore, Corporation X is required to report the amount paid to A under section 6049.

Example (5). The facts are the same as in example (4) except that Corporation X is a resident of a country which has an income tax treaty with the United States that precludes the United States from imposing tax on interest paid by residents of that country to persons who are not United States persons. Under paragraph (b)(1)(vii)(D) of this section, the amount paid by Corporation X on its bonds is not considered to be interest for purposes of section 6049 since, by reason of the application of a treaty, interest paid by Corporation X would be exempt from withholding under subchapter A of chapter 3 of the Code if such interest were paid to a person other than a United States person. Corporation X is not required to report on the amounts paid to A under section 6049.

Example (6). The facts are the same as in example (5) except that A presents its coupons from the Corporation X bonds for payment to N, a paying agent of Corporation X in the United States. The payment by N to A is considered to be a payment of interest under paragraph (b)(3)(ii) of this section, and N is required to report the payment to A under section 6049.

Example (7). Corporation Y is a domestic corporation, all of the gross income of which for the 3-year period described in section 861 (a)(1)(B) has been from sources outside the United States. B, a United States citizen, holds bonds issued by Corporation Y in a public offering. B presents the coupons from such bonds for payment to Corporation Y at an office maintained by Corporation Y outside the United States. Under paragraph (b)(1)(ix) of this section, the amounts paid by Corporation Y are not considered to be interest for purposes of section 6049 since such amounts are considered to be from sources outside the United States under sections 861(a)(1)(B) and 862(a)(1) and are paid outside the United States. Corporation Y is not required under section 6049 to report its payment to B.

Example (8). D has a deposit in an account maintained with a foreign branch of R, a domestic corporation which carries on a commercial banking business. R makes payment of amounts with respect to such deposit outside the United States. Such amounts are considered to be income from sources outside the United States under sections 861(a)(1)(F)(i) and 862(a)(1) and, in accordance with paragraph (b)(1)(ix) of this section, are not considered to be interest for purposes of section 6049. Therefore, R is not required to report under section 6049 regardless of whether D is or is not a United States person.

Example (9). The facts are the same as in example (8) except that D's deposit is in a Puerto Rican branch of a United States bank. The amounts paid with respect to such deposit are income from sources outside the United States within the meaning of sections 861(a)(1)(F)(i) and 862(a)(1). In accordance with the provisions of paragraph (b)(1)(ix) of this section, such amounts are not considered to be interest for purposes of section 6049, and R is not required by section 6049 to report the amounts paid to D regardless of whether D is or is not a United States person.

Example (10). E, a nonresident alien individual, maintains an account in the United States with Corporation S, a domestic corporation which carries on a commerical banking business. S receives the statement described in paragraph (b)(2)(iv) of this section from E with respect to the amount paid on the deposit in E's account with S. The amount paid by S to E with respect E's deposit is considered to be from sources outside the United States under sections 861(a)(1)(A) and 862(a)(1) and is not subject to withholding under subchapter A of chapter 3 of the Code. In accordance with provisions of paragraph (b)(1)(vi)(B)(1) of this section, such amount is not considered to be interest for purposes of section 6049. Thus, S is not required to report.

Example (11). U is a domestic corporation which is engaged in a commerical banking business in the United States and outside the United States through a foreign branch. F, an alien individual resident of the United States, holds a non-deposit obligation of U which is a part of a public debt issuance. F makes a demand for payment of the interest due on such obligation at the foreign branch of U. The amount paid by U is considered to be income from sources within the United States under section 861(a)(1) and is considered to be interest under section 6049. U, therefore, is required to report the payment to F under section 6049.

Example (12). The facts are the same as in example (11) except that the obligation held by F was issued by W, a wholly-owned foreign subsidiary of U. W is not engaged in trade or business in the United States during the calendar year. F makes a demand for payment at the office of W outside the United States. Under paragraph (b)(1)(vii)(C) of this section, the amounts paid by W to F are not considered to be interest for purposes of section 6049. Therefore, W is not required under section 6049 to report the payment to F, regardless of whether F is or is not a United States person.

Example (13). Q, a domestic corporation, acts within the United States as custodian for G with respect to obligations of Z that are owned by G. G is a nonresident alien individual who is a resident of a country with which the United States has an income tax treaty. Z is a foreign corporation the interest payments of which would not be subject to withholding under subchapter A of chapter 3 of the Code if such payments were made to a person who is not a United States person. During the preceding calendar year, Q received a Form 1001 from G in accordance with the provisions of § 1.1441-6(c) with respect to interest paid on other corporate obligations held by Q on G's behalf. During the present calendar year Q collects amounts paid on the Z obligations on behalf of G. G does not give Q the statement described in paragraphs (b)(2)(iv) and (b)(3)(iv) of this section with respect to such amounts. However, as the Form 1001 submitted by G in the preceding calendar year is effective during the present calendar year with respect to certain amounts that are or may be paid to G, Q is not required to report on the amounts collected on G's behalf with respect to the Z obligations.

(c) *Original issue discount treated as payment of interest.* In determining whether an obligation is one which was issued at a discount and the amount of discount which is includible in income of the holder, a payor (other than the issuer of the obligation) may rely on the Internal Revenue Service's publication of publicly traded original issue discount obligations. In the case of an obligation as to which there is during any calendar year an amount of original issue discount includible in the gross income of any holder (as determined under sections 1232 and 1232A and the regulations thereunder), the issuer of the obligation or a middleman (as defined in § 1.6049-4(f)(4)) shall be treated as having paid to such holder during such calendar year an amount of interest equal to the amount of original issue discount so includible without regard to any reduction by reason of a purchase allowance under section 1232(a)(2)(C)(ii), 1232A (a)(6) or (b)(4) or a purchase at a premium under 1232A(c)(4)(A) or paragraph (d)(2) of § 1.1232-3. Thus, the determination of

the amount of original issue discount includible in the gross income of any holder with respect to any obligation shall be determined as if any holder of the obligation were the original holder. In the case of (1) an obligation to which section 1232A does not apply (for example, a short-term government obligation as defined in section 1232(a)(3)) and (2) an obligation issued on or before December 31, 1982, in bearer form, the amount of original issue discount includible in gross income shall be treated as if paid in the calendar year in which the date of maturity occurs or in which the date of redemption occurs if redemption occurs before maturity. The amount subject to reporting on an obligation issued in bearer form with a maturity at the date of issue of more than 1 year (a long term obligation) is the amount of original issue discount includible in the gross income of the holder during the calendar year of maturity or redemption if redemption occurs before maturity. The amount of original issue discount subject to reporting on a long term obligation shall not be reduced to reflect any purchase allowance. Discount on short term government obligations as defined in section 1232(a)(3), such as Treasury bills, and discount on other obligations with a maturity at the date of issue of not more than 1 year (a short term obligation), including commercial paper, when paid at maturity or redemption if redemption occurs before maturity, shall constitute a payment of interest for purposes of section 6049. In general, the amount subject to reporting on short term obligations is the difference between the stated redemption price at maturity and the original issue price. The procedure set forth in section 3455(b)(2)(B) and § 31.3455(b)-1(b)(3) for establishing the price at which a holder purchased an obligation subsequent to the date of original issue shall apply for purposes of section 6049. Any original issue discount on an obligation (including an obligation with a maturity of not more than 6 months from the date of original issue) held by a nonresident alien individual or foreign corporation is interest described in § 1.6049-5(b)(1)(vi)(A) or (B) and, therefore, is not interest subject to reporting under section 5f.6049.

§ 1.6049-6 Statements to recipients of interest payments and holders of obligations as to which there is attributed original issue discount after December 31, 1982.

(a) *Requirement of furnishing statement to recipient.* Every person filing a Form 1099 under section 6049(a) and § 1.6049-4(e) shall furnish to the person whose identifying number is required to be shown on the form a written statement showing the information required by paragraph (b) of this section. With respect to interest other than interest reported on a transactional basis under § 1.6049-4(e), no statement is required to be furnished under section 6049(c) and this section if the aggregate of the payments for the calendar year is less than $10, unless such payment is subject to the tax imposed under section 3451. In the case of any payment that is subject to withholding under section 3451, a statement shall be furnished irrespective of the amount of the payment. With respect to payments which are reported on a transactional basis, no statement is required to be furnished under section 6049(c) and this section to a person if the payment of interest to (or received on behalf of) such person for the transaction is less than $10 unless the payment is subject to withholding under section 3451. Again, in the case of any payment that is subject to withholding under section 3451, a statement shall be furnished irrespective of the amount of the payment.

(b) *Form of statement.* The written statement required to be furnished to a person under paragraph (a) of this section shall show the following information:

(1) With respect to payments of interest (other than original issue discount) to any person during a calendar year, the statement shall show—

(i) The aggregate amount of payments shown on Form 1099 as having been made to (or received on behalf of) such person;

(ii) The amount of tax withheld under section 3451, if any;

(iii) The name and address of the person filing the form; and

(iv) A legend stating that such amount is being reported to the Internal Revenue Service.

(2) With respect to original issue discount includible in the gross income of a holder of an obligation during a calendar year, the statement shall show—

(i) The aggregate amount of original issue discount includible in the gross income by (or on behalf of) such person for the calendar year with respect to the obligation (determined by applying the rules of paragraph (b)(2) of § 1.6049-4);

(ii) The amount of tax withheld under section 3451, if any;

(iii) The account, serial, or other identifying number of each obligation with respect to which a return is being made;

(iv) All other items shown on Form 1099 for such calendar year, and

(v) A legend stating that such amount and such items are being reported to the Internal Revenue Service.

(c) *Time for furnishing statements.* Each statement required by this section to be furnished to any person for a calendar year with respect to a payment of interest (other than interest where a middleman or a Federal agency makes a return on a transactional basis (as described in paragraph (e) of § 1.6049-4)) shall be furnished to such person after April 30 of the year of payment and on or before January 31 of the following year, but no statement may be furnished before the final interest payment for the calendar year. If a middleman or a Federal agency makes a return on a transactional basis, the statement shall be furnished at, or any time subsequent to, the time of payment, but in no event later than January 31 of the year following the calendar year of payment.

(d) *Special rule.* The requirements of this section for the furnishing of a statement to any person, including the legend requirement of paragraph (b)(1)(iv) and (2)(v) of this section, may be met by the furnishing to such person a copy of the Form 1099 filed pursuant to § 1.6049-4, or a reasonable facsimile thereof, in respect of such person. However, in the case of Form 1099 with respect to original issue discount on obligations subject to section 1232A, a copy of the instructions must also be sent to such person. A statement shall be considered to be furnished to a person within the meaning of this section if it is mailed to such person at his last known address.

PART 5f—[AMENDED]

§§ 5f.6049-1, 5f.6049-2 and 5f.6049-3 [Removed]

Par. 6. Sections 5f.6049-1, 5f.6049-2, and 5f.6049-3 of the Temporary Income Tax Regulations under the Tax Equity and Fiscal Responsibility Act of 1982 (26 CFR Part 5f) are hereby removed.

This Treasury decision is issued under authority contained in sections 6049 (a), (b), and (d) and 7805 of the Internal Revenue Code of 1954 (96 Stat. 592, 594; 26 U.S.C. 6049 (a), (b), and (d); 68A Stat. 917, 26 U.S.C. 7805), and in section 309 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 591).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 16, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-7716 Filed 3-22-83; 1:23 pm]

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federal register

Monday
March 28, 1983

Part IV

Department of the Interior

Minerals Management Service

Outer Continental Shelf; South Atlantic; Proposed Oil and Gas Lease Offering (July 1983)

Billing Code: 4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
South Atlantic
Proposed Oil and Gas Lease Offering (July 1983)

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to Sec. 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed notice for this offering. The following is a proposed notice for the July 1983 lease offering in the waters offshore the South Atlantic States. This notice is hereby published as a matter of information to the public.

Director, Minerals Management Service
Harold Roley

Approved:

Acting Asst. Secretary of the Interior
William P. Pendley

Date: 22 March 1983

Outer Continental Shelf, South Atlantic

Oil and Gas Lease Offering (July 1983)

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256, formerly 43 CFR Part 3300; see the Federal Register at 47 FR 47006, October 22, 1982). A revision of these regulations appeared in the Federal Register at 47 FR 25967 and 26031, June 16, 1982.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Atlantic Outer Continental Shelf (OCS) Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180. Bids may be delivered, either by mail or in person, to the above address until the Bid Submission Deadline at 4:30 p.m., e.s.t., July 25, 1983. Because of new streamlining procedures, bids will not be accepted on July 26, 1983, the day of Bid Opening. Bids received by the Regional Manager later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the Regional Manager prior to 4:30 p.m., e.s.t., July 25, 1983. Bids may not be withdrawn unless written withdrawal is received by the Regional Manager prior to 9:00 a.m., e.s.t., July 26, 1983. Bid Opening Time will be 10:00 a.m., July 26, 1983, at (offering site in the Vienna, Virginia area, to be announced). All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this offering will be published in the Federal Register in April 1983.

3. Method of Bidding. Tract numbers will not be used. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert offering name, map number(s) and name(s) (if applicable), and block number(s)), not to be opened until 10 a.m., e.s.t., July 26, 1983," must be submitted for each block or prescribed bidding unit bid upon. For example, a bid on the first block appearing on the block list for this offering would identify the block as follows: "(South Atlantic July 1983) NJ 18-11 (Currituck Sound) Block 551." Paragraph 12, "Block Descriptions," lists which blocks must be bid on together as a single "bidding unit." For a bid on a "bidding unit," the sealed envelope containing the bid must be labeled with all blocks included in the "bidding unit." A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than all the unleased area of a block or bidding unit as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Partnerships also need to submit a list of

signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this offering must provide for a cash bonus of $371 or more per hectare or fraction thereof. All leases awarded for this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof. Leases awarded under 4(b), (c), and (d) will provide for a minimum royalty of $8 per hectare or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a Fixed Net Profit Share. Bids on the following blocks must be submitted on a cash bonus basis with a fixed net profit share rate of 30 percent and a capital recovery factor of 1.50:

NI 18-7 Cape Fear
571, 614, 743, 744

Bids on the following block must be submitted on a cash bonus basis with fixed net profit share rate of 45 percent and a capital recovery factor of 0.50:

NI 18-7 Cape Fear
874

The net profit share payment shall be calculated according to the regulations previously codified in 10 CFR Part 390 (originally promulgated by the Department of Energy in the Federal Register at 45 FR 36784, May 30, 1980). The Department of the Interior has redesignated those regulations as 30 CFR Part 261; see the Federal Register at 48 FR 1181, January 11, 1983.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on the following blocks must be submitted on a cash bonus basis with the percent royalty due in amount of value of production fixed according to the sliding scale formula described following the list of blocks:

NH 17-8
570-571, 613-615, 656-659, 700-703, 745-747, 789-791, 833-835, 878-879, 922-923, 966-967, 1010-1011

NH 17-11
42-43, 87, 131, 175, 219

NH 17-9
7-40, 51-84, 95-128, 139-172, 183-216, 227-260, 271-304, 315-348, 359-392, 403-436, 447-480, 491-524, 529-568, 573-612, 617-656, 661-700, 705-744, 749-788, 793-832, 837-876, 881-920, 925-964, 969-1008

NH 17-12
1-21, 45-65, 89-109, 133-153, 177-197, 221-241, 265-285, 318-329, 362-373, 406-417, 450-461, 494-505, 538-549, 582-593, 626-637

The following formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: When the quarterly value of production, adjusted for inflation, is less than or equal to $48.187169 million, a royalty of 12.5000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $48.187170 million, but less than or equal to $304094.200000 million, the royalty percent due on the unadjusted value or amount of production is given by:

$Rj = b\ [Ln\ (Vj/S)]$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 6.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 6.0

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

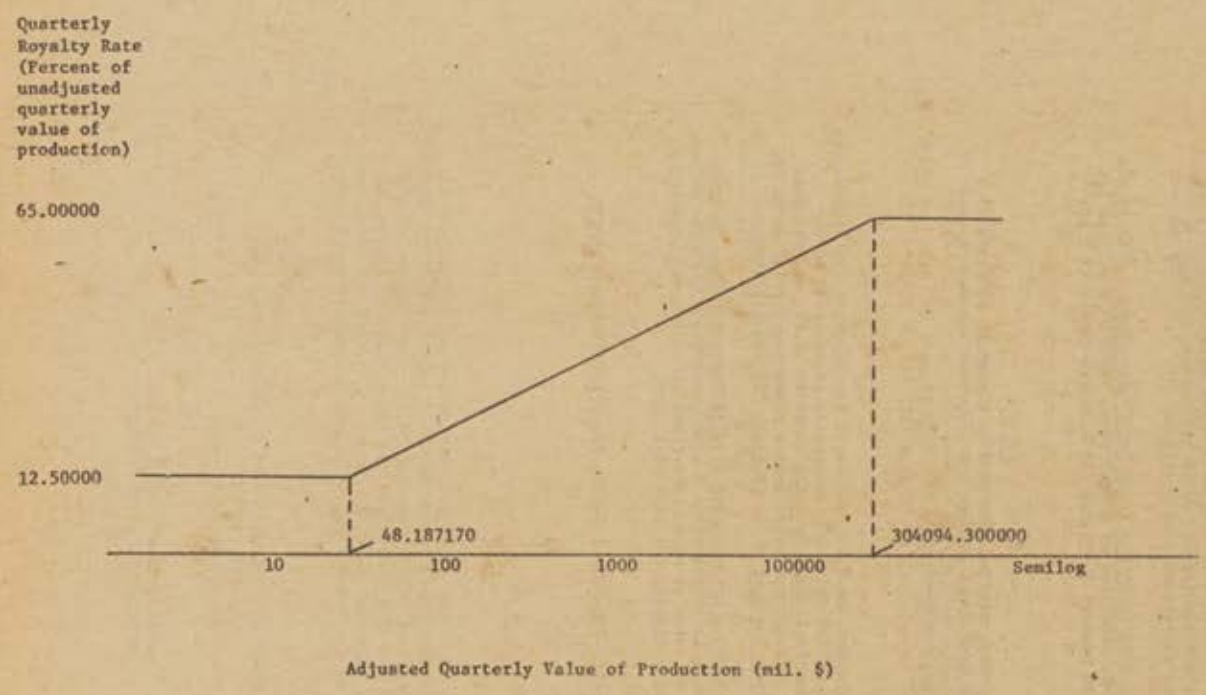
(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	12.50000	1.25000
30.000000	200.0	4/3	22.500000	12.50000	3.75000
90.000000	200.0	4/3	67.500000	14.52221	13.06999
270.000000	200.0	4/3	202.500000	21.11388	57.00748
810.000000	200.0	4/3	607.500000	27.70556	224.41504
10.000000	250.0	5/3	6.000000	12.50000	1.25000
30.000000	250.0	5/3	18.000000	12.50000	3.75000
90.000000	250.0	5/3	54.000000	13.18335	11.86502
270.000000	250.0	5/3	162.000000	19.77502	53.39255
810.000000	250.0	5/3	486.000000	26.36669	213.57019

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

Figure 1
Form of the Sliding Royalty Schedule



When the adjusted quarterly value of production is equal to or greater than $304094.300000 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 22.11425 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars rounded to the sixth digit, i.e., the nearest dollar (for example, $239.240136 million).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during this quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the following blocks must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent:

NJ 18-11

551-554, 593-598, 639-641, 683-685, 727-729, 771-773, 815-817, 859-861, 903-905, 947-949, 991-993, 1035-1036

NI 18-2
23-24, 67-68, 111-112, 155-156, 199-200, 243-245, 287-289, 331-333, 375-377, 419-421, 463-464, 507-508, 551-552, 595, 638-639, 661-662, 724-725, 768, 811-812, 854-855, 897-898, 940-941, 983-984

NI 18-5
13, 56

NI 18-4
963, 1007

NI 18-7
207-210, 251-253, 295-296, 339

NI 18-10
6-8, 50-51, 94

NH 17-8
744, 788, 832, 874-877, 918-921, 962-965, 1006-1009,

NH 17-11
38-41, 80-86, 123-130, 166-174, 210-218, 254-263, 299-307

(d) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the remaining blocks to be offered at this offering must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2, above, the certification required by 41 CFR 60-1.7 (b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Equal Opportunity Compliance Report Certification Form, Form 1140-8 (June 1982) and the Equal Opportunity Affirmative Action Program Representation Form, Form 1140-7 (June 1982). See paragraph 14, "Information to Bidders."

6. Bid Opening. Bids will be opened at the Bid Opening time, stated in paragraph 2, above. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, on the day specified in Bid Opening Time, stated in paragraph 2, above that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this offering prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, or Rejection of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted and no lease for any block or bidding unit will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $371 or more per hectare or fraction thereof. Any bid submitted which does not conform to the requirements of this notice, the OCS Lands Act, as amended, or applicable regulations, may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 30 CFR Part 256 Subpart I within the time provided in 30 CFR 256.47. A modification of the payments procedure for successful bidders appeared in the latest revision of regulations discussed in paragraph 1, above. These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Official Protraction Diagrams. Blocks or bidding units offered for lease may be located on the following Official Protraction Diagrams which may be purchased for $2.00 each from the Regional Manager, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180 or from the Regional Manager, Atlantic OCS Region, Jacob K. Javits Federal Building, 26 Federal Plaza, Suite 32-120, New York, New York 10278.

Outer Continental Shelf Official Protraction Diagram Nos.:

NJ 18-11 Currituck Sound (Approved April 18, 1979)
NI 18-2 Manteo (Approved October 31, 1974)
NI 18-4 Beaufort (Approved August 1, 1975)
NI 18-5 (Approved August 1, 1975)
NI 18-7 Cape Fear (Approved June 11, 1975; Revised June 3, 1976)
NI 18-8 (Approved August 1, 1975)
NI 18-10 (Approved June 11, 1975; Revised July 5, 1977)
NH 17-3 (Approved June 11, 1975)
NH 18-1 (Approved July 21, 1975)
NH 17-6 (Approved June 11, 1975)
NH 17-8 Daytona Beach (Approved April 29, 1975)
NH 17-9 (Approved July 21, 1975)
NH 17-11 Orlando (Approved June 11, 1975)
NH 17-12 (Approved July 21, 1975)

12. Description of the Areas Offered for Bids. Note: All blocks contain 2304 hectares, unless otherwise indicated on the lists which appear as items (b) and (c) of this section.

(a) All blocks within the following list are offered for bid:

NJ 18-11 Currituck Sound

551-561	727-73[illegible]	822-825	903-908	954-957
595-605	771-776	859-864	910-913	991-1001
639-649	778-781	866-869	947-952	1035-1045
683-693	815-820			

NI 18-2 Manteo

23-33	287-289	424-429	595-596	768-781
67-77	292-297	463-465	599-605	811-825
111-121	331-333	468-473	638-639	854-869
155-165	336-341	507-509	641	897-913
199-209	375-377	512-517	643-649	940-957
243-245	380-385	551-552	681-693	983-1001
248-253	419-421	555-561	724-737	

NI 18-4 Beaufort

836	878-880	921-924	963-968	1007-1012

NI 18-5

13-31	232-251	449-471	663-691	793-823
56-75	275-295	492-515	706-708	837-867
100-119	319-339	536-559	711-735	881-911
144-163	362-383	579-603	749-751	925-955
188-207	406-427	622-647	754-779	969-999

NI 18-7 Cape Fear

39-44	339-352	559-568	744-745	911-916
82-88	383-396	571-572	748	919-924
125-132	427-440	603-614	779-786	955-960
169-176	471-480	616	788-789	963-968
207-220	483-484	647-660	792	999-1004
251-263	515-524	691-704	823-836	1007-1012
295-308	527-528	735-742	867-880	

NI 18-8

1-31	221-251	441-471	661-691	837-867
45-75	265-295	485-515	705-735	881-911
89-119	309-339	529-559	749-779	925-955
133-163	353-383	573-603	793-823	969-999
177-207	397-427	617-647		

NI 18-10

6-44	226-264	446-484	666-704	841-880
50-88	270-308	490-528	710-748	885-924
94-132	314-352	534-572	754-792	929-968
138-176	358-396	578-616	798-836	973-1012
182-220	402-440	622-660		

NH 17-3

328-347	504-523	636-655	768-787	900-919
372-391	548-567	680-699	812-831	944-963
416-435	592-611	724-743	856-875	988-1007
460-479				

NH 18-1

1-28	221-248	441-468	661-688	837-864
45-72	265-292	485-512	705-732	881-908
89-116	309-336	529-556	749-776	925-952
133-160	353-380	573-600	793-820	969-996
177-204	397-424	617-644		

NH 17-6

20-39	240-259	447-479	667-700	843-876
64-83	284-303	491-524	711-744	887-920
108-127	328-347	535-568	755-788	931-964
152-171	359-391	579-612	799-832	975-1008
196-215	403-435	623-656		

NH 17-8 Daytona Beach

570-571	700-703	788-791	874-879	962-967
613-615	744-747	832-835	918-923	1006-1011
656-659				

NH 17-9

7-40	227-260	447-480	661-700	837-876
51-84	271-304	491-524	705-744	881-920
95-128	315-348	529-568	749-788	925-964
139-172	359-392	573-612	793-832	969-1008
183-216	403-436	617-656		

NH 17-11 Orlando

38-43	123-131	210-219	254-263	299-307
80-87	166-175			

NH 17-12

1-21	133-153	265-285	406-417	538-549
45-65	177-197	309-329	450-461	582-593
89-109	221-241	362-373	494-505	626-637

(b) The following partial blocks must be bid on individually:

NI 18-10

Block	Hectares	Block	Hectares	Block	Hectares
94	1175.95	358	1567.33	622	1955.94
138	1241.38	402	1632.29	666	2020.44
182	1306.72	446	1697.18	710	2084.86
226	1371.99	490	1761.98	754	2149.21
270	1437.18	534	1826.71	798	2213.48
314	1502.30	578	1891.37	842	2277.41

NH 17-3

Block	Hectares	Block	Hectares	Block	Hectares
699	1178.56	831	1366.24	963	1553.22
743	1241.20	875	1428.64	1007	1615.39
787	1303.76	919	1490.97		

NH 18-1

Block	Hectares	Block	Hectares	Block	Hectares
661	1178.56	793	1366.24	925	1553.22
705	1241.20	837	1428.64	969	1615.39
749	1303.76	881	1490.97		

NH 17-6

Block	Hectares	Block	Hectares	Block	Hectares
39	1677.48	215	1925.06	391	2171.38
83	1739.49	259	1986.75	435	2232.77
127	1801.42	303	2048.37	479	2290.58
171	1863.28	347	2109.92		

NH 17-9

Block	Hectares	Block	Hectares	Block	Hectares
304	1139.93	568	1497.11	832	1851.43
348	1199.66	612	1556.36	876	1910.20
392	1259.31	656	1615.54	920	1968.90
436	1318.88	700	1674.63	964	2027.51
480	1378.37	744	1733.64	1008	2086.04
524	1437.78	788	1792.57		

(c) The following blocks, as grouped into bidding units, must be bid on together:

Official Protraction Diagram	Block	Block Hectares	Bidding Unit Hectares
NI 18-10	6	1044.88	
	50	1110.46	2155.34
NI 18-10	841	0.26	
	885	37.78	
	929	101.82	
	973	165.77	305.63

Official Protraction Diagram	Block	Block Hectares	Bidding Unit Hectares
NH 17-3	39	229.66	
	83	293.46	
	127	357.19	
NH 18-1	1	229.66	
	45	293.46	
	89	357.19	1760.62
NH 17-3	171	420.83	
	215	484.40	
NH 18-1	133	420.83	
	177	484.40	1810.46
NH 17-3	259	547.90	
	303	611.31	
	347	674.65	1833.86
NH 18-1	221	547.90	
	265	611.31	
	309	674.65	1833.86
NH 17-3	391	737.91	
NH 18-1	353	737.91	1475.82
NH 17-3	435	801.09	
NH 18-1	397	801.09	1602.18
NH 17-3	479	864.20	
NH 18-1	441	864.20	1728.40
NH 17-3	523	927.23	
NH 18-1	485	927.23	1854.46
NH 17-3	567	990.18	
NH 18-1	529	990.18	1980.36
NH 17-3	611	1053.05	
NH 18-1	573	1053.05	2106.10
NH 17-3	655	1115.84	
NH 18-1	617	1115.84	2231.68

Official Protraction Diagram	Block	Block Hectares	Bidding Unit Hectares
NH 17-6	80	3.50	
	524	51.31	
	568	112.46	
	612	173.53	
	656	234.52	
	700	295.43	
	744	356.27	1227.02
NH 17-6	788	417.02	
	832	477.70	
	876	538.30	1433.12
NH 17-6	920	598.82	
	964	659.26	
	1008	719.62	1977.70
NH 17-9	40	779.90	
	84	840.10	1620.00
NH 17-9	128	900.23	
	172	960.27	1860.50
NH 17-9	216	1020.24	
	260	1080.13	2100.37

13. Lease Terms and Stipulations. (a) Leases resulting from this offering for the following blocks will be for an initial term of 10 years:

NJ 18-11 Currituck Sound

556-561	732-737	822-825	910-913	1040-1045
600-605	776	864	952	
644-649	778-781	866-869	954-957	
688-693	820	908	996-1001	

NI 18-2 Manteo

27-33	248-253	468-473	643-649	858-869
70-77	292-297	512-517	684-693	901-913
114-121	336-341	555-561	727-737	944-957
158-165	380-385	599-605	771-781	988-1001
202-209	424-429	641	814-825	

NI 18-5

17-31	232-251	449-471	666-691	841-867
59-75	275-295	492-515	711-735	885-911
101-119	319-339	536-559	754-779	928-955
145-163	362-383	579-603	797-823	972-999
189-207	406-427	623-647		

NI 18-7 Cape Fear

308	483-484	616	748	847-880
352	527-528	657-660	788-789	919-924
395-396	571-572	700-704	792	963-968
439-440	614	744-745	831-836	1007-1012

NI 18-8

4-31	221-251	441-471	661-691	837-867
48-75	265-295	485-515	705-735	881-911
91-119	309-339	529-559	749-779	925-955
134-163	353-383	573-603	793-823	969-999
178-207	397-427	617-647		

NI 18-10

36-44	254-264	469-484	686-704	858-880
80-88	297-308	512-528	726-748	901-924
123-132	340-352	556-572	770-792	945-968
166-176	383-396	599-616	814-836	989-1012
210-220	426-440	643-660		

NH 18-1

17-28	234-248	452-468	670-688	846-864
60-72	277-292	496-512	714-732	890-908
103-116	321-336	539-556	758-776	933-952
147-160	364-380	583-600	802-820	977-996
191-204	408-424	627-644		

NH 17-9

874-876	915-920	958-964	1002-1008

All other leases issued as a result of this offering will be for an initial term of 5 years. Leases issued as a result of this offering will be on Form MMS-2005 (August 1982), available from the Regional Manager, at the address stated in paragraph 2.

(b) For leases resulting from this offering for blocks offered on a cash bonus basis with a fixed sliding scale royalty, listed in paragraph 4(b), Form MMS-2005 will be amended as follows:

Sec. 6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows: when the quarterly value of production, adjusted for inflation, is less than or equal to $48.187169 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $48.187170 million, but less than or equal to $304094.200000 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b\,[Ln\,(Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 6.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 6.0

When the adjusted quarterly value of production is equal to or greater than $304094.300000 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 22.11425 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, $239.240136 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(c) For leases resulting from this offering for blocks offered on a cash bonus basis with a fixed net profit share, as listed in paragraph 4(a), Form MMS-2005 will be amended as follows:

Sec. 4. Rentals. The phrase, "which commences prior to a discovery in paying quantities of oil or gas on the leased area," is hereby deleted and replaced by, "which commences prior to the date the first net profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of percent with a capital recovery factor, calculated pursuant to 30 CFR Part 261.

(d) Except as otherwise noted, the following stipulations will be included in each lease resulting from this offering. In the following stipulations, the term RM refers to the Regional Manager, Atlantic OCS Region, Minerals Management Service, and the term RSOPO refers to the Regional Supervisor Offshore Field Operations, Atlantic OCS Region, Minerals Management Service.

Stipulation No. 1

If the BM has reason to believe that a site, structure, or object of historical or archeological significance, hereinafter referred to as "cultural resource," may exist in the leased area and gives the lessee written notice that the lessor is enforcing the provisions of this stipulation, the lessee shall, upon receipt of such notice, comply with the following requirements:

(1) Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platfrom placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys and/or prepare a report, as specified by the BM, to determine the potential existence of any cultural resource that may be affected by such operation. All data produced as well as other pertinent natural and cultural environmental data shall be examined by an archeologist and geophysicist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of such surveys and assessments prepared by an archeologist and geophysicist shall be submitted by the lessee to the BM.

(2) If such cultural resource indicators are present, the lessee shall: (a) locate the site of the lease operation so as not to affect adversely the identified location; or (b) establish to the satisfaction of the BM, on the basis of further archeological investigation conducted by an archeologist and geophysicist using such survey equipment and techniques as deemed necessary by the BM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

(3) A report of the latter investigation prepared by the archeologist and geophysicist shall be submitted to the BM for review. Should the BM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the BM has given direction as to its protection.

In addition, the lessee agrees that if any cultural resource should be discovered during the conduct of any operation on the leased area, he shall report immediately such findings to the BM and make every reasonable effort to protect the cultural resource until the BM gives directions as to its protection.

Stipulation No. 2

(To be included only in the leases resulting from this offering for the following blocks)

NJ 18-11

551-555
595-598
639-642
683-686
727-730
771-775
815-818
859-862
903-906
947-950
991-993
1035-1037

NI 18-2

23-25
67-69
111-113
155-157
199-201
243-245
287-289
331-333
375-377
419-421
463-465
507-509
551-552
595-596
638-639
681-683
724-726
768-769
811-813
854-856
897-899
940-942
983-985

NI 18-4

836
878-879
921-922
963-965
1007-1008

NI 18-5

13-14
56-58
100-101
144

NI 18-7

39
82
207-210
251-253
295-296
339-340
383

NI 18-10

6-9
50-52
94-95

NH 17-8

656
700
744
788
832-833
874-877

NH 17-8(cont'd)

918-921
962-965
1006-1010

NH 17-11

38-42
80-86
123-130
166-174
210-218
254-263
299-307

Prior to any drilling activity or the construction or placement of any structure for exploration or development on a lease, including, but not limited to, well drilling and pipeline and platform placement, the lessee will submit to the Regional Supervisor, Offshore Field Operations (RSOFO); as part of his exploration and/or development plan, a bathymetry map, prepared utilizing remote sensing and/or other survey techniques including but not limited to side scan sonar and subbottom profilers. This map will include interpretations for the presence of hard bottom areas in proximity to a proposed well site. The location and size of this area will be determined on a case by case basis depending upon site conditions such as current speed, direction and profile; water depth; results of completed and ongoing studies; and any information that becomes available through review and comments.

If it is determined that remote sensing data indicate the presence of hard bottom areas, the RSOFO must determine whether there could be an adverse impact by the proposed operations assuming the area is a live hard bottom.

If it is determined that these areas would be adversely affected by the proposed operations, the lessee will either modify operations to avoid affecting these areas or submit to the RSOFO photographic or other documentation of the sea bottom near the proposed drill site in order to confirm the presence or absence of live hard bottom areas. Live hard bottoms that merit protection under this stipulation are offshore hard bottom assemblages typically inhabited by sessile invertebrates such as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans or corals and associated fishes.

If the area is a live hard bottom that would be adversely affected, the RSOFO will require the lessee to protect these areas where it is environmentally, technically, and economically feasible. These protective modifications may include, but are not limited to:

1. The relocation of operations to avoid live bottom areas;

2. The shunting of all drilling fluids and cuttings in such a manner so as to avoid live bottom areas;

3. The transportation of drilling fluids and cuttings to approved disposal sites; and

4. The monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation No. 3

If available environmental information indicates that other biological populations or habitats not associated with hard bottoms which require special protection may exist in proximity to a proposed drill site, the RSOFO will require the lessee to undertake protective measures that may include but are not limited to: (1) relocating the site of operations so as not to adversely affect these special biological resources or (2) modifying operations, such as the disposal of drilling muds and cuttings, in such a way as not to adversely affect the biological populations or habitats, or (3) establishing to the satisfaction of the RSOFO that such operations will not adversely affect the biological populations or habitats identified. The lessee shall submit all data obtained in the course of surveys to the RSOFO.

Special biological resources include, but are not limited to: (1) very unusual, rare, or uncommon ecosystems, (2) a species of limited regional distribution that may be adversely affected by any lease operations; and (3) critical habitat for endangered and threatened species.

Operations, including sitings, must be conducted to insure the protection and continued viability of biological populations or habitats deserving protection in a manner consistent with the other purposes of the Outer Continental Shelf Lands Act, as amended. The lessee may take no action that might result in any adverse effect on the biological population or habitats identified until the RSOFO provides written directions to the lessee, with regard to permissible actions.

In the event that biological populations or habitats deserving special protection are identified subsequent to commencement or during operations, the lessee shall make every reasonable effort to preserve and protect all such populations and habitats within the lease area from damage until the RSOFO provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 4

(To be included only in leases resulting from this offering for blocks subject to joint usage with military operations. The jurisdiction of the military installations indicated will be specified in the final notice for this offering.)

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise; the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the Fleet Area Control and Surveillance Facility, Virginia Beach, VA; the Marine Corps Air Station, Cherry Point, NC; the Charleston Operating Area, Charleston, SC; the Fleet Area Control and Surveillance Facility, Jacksonville, FL; the Naval Ordnance Test Unit, Cape Canaveral, FL; or Eastern Space and Missile Center, Patrick Air Force Base, FL. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation

whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) The lessee when operating or causing to be operated on its behalf, boat or aircraft traffic into the individual designated warning areas, shall enter into an agreement with the Commander, Fleet Area Control and Surveillance Facility, Virginia Beach, VA; the Commanding General, Marine Corps Air Station, Cherry Point, NC; the Charleston Operating Area Coordinator, Charleston, SC; the Commander, Fleet Area Control and Surveillance Facility, Jacksonville, FL; the Commanding Officer, Naval Ordnance Test Unit, Cape Canaveral, FL; or the Commander, Eastern Space and Missile Center, Patrick Air Force Base, FL, on utilizing an individual designated warning area, prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

(c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the Commander, Fleet Area Control and Surveillance Facility, Virginia Beach VA; the Commanding General, Marine Corps Air Station, Cherry Point, NC; the Charleston Operating Area Coordinator, Charleston, SC; the Commander, Fleet Area Control and Surveillance Facility, Jacksonville, FL; or the Commanding Officer, Naval Ordnance Test Unit, Cape Canaveral, FL; or the Commander, Eastern Space and Missile Center, Patrick Air Force Base, FL, to the degree necessary to prevent damage to or unacceptable interference with Department of Defense flight, testing, or operational activities conducted within designated warning areas.

Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

Stipulation No. 5

(To be included only in leases resulting from this offering for the following blocks on Protraction Diagram NJ 18-11: 551-561, 595-605, 639-649, 683-693, 727-737, 771-776, 778-781, 815-820, 822-825, 859-864, 866-869, 903-908, 910-913, 947-952, 954-957, 991-1001, 1035-1045; and the following blocks on NI 18-2: 23-33, 67-77, 111-121, 155-165, 199-209, 243-245, 247-253, 287-289, 291-297, 331-333, 335-341, 375-377, 379-385, 419-421, 423-429, 463-465, 467-473, 507-509, 512-517, 551-552, 555-561, 595-596, 599-605, 638-639, 641, 643-649, 681-693, 724-737, 768-781, 811-825, 854-869, 897-913, and 940-957).

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risk of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by or on behalf of the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities or any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees being conducted as a part of, or in connection with, the programs and activities of the National Aeronautics and Space Administration (NASA), Wallops Flight Center. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, the agents, employees, or invitees of the lessee, its agents, or any independent contractors, or subcontractors doing business with the lessee in connection with the programs and activities of the NASA, Wallops Flight Center, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors or any of their officers, agents, or employees, and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, shall enter into an agreement with the Director, Wallops Flight Center, prior to commencing such traffic. Such agreement shall provide for positive control of boats, ships, and aircraft operating in the above designated areas and will provide for the avoidance of interference with the programs and activities of the NASA Wallops Flight Center.

(c) Upon recommendation by the Director, Wallops Flight Center, when the activities of the NASA Wallops Flight Center may endanger personnel or property, the lessee agrees, upon receipt of notice from the Regional Supervisor, Offshore Field Operations (RSOFO) to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty-eight (48) hours or within such longer period as may be specified by the RSOFO.

The RSOFO shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by subsequent notice from the RSOFO. Equipment and structures may remain in place on the lease during such time as the evacuation remains in effect.

(d) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, in accordance with the requirements specified by the Director, Wallops Flight Center, to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the NASA, Wallops Flight Center.

Necessary monitoring, control and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Director, Wallops Flight Center, provided, however, that control of such electromagnetic communication shall in no instance prohibit all manner of electromagnetic communications during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation No. 6.

(To be included only in leases resulting from this offering for all the blocks offered that are located on Protraction Diagrams NI 18-4, NI 18-7, NI 18-10, NH 17-3, NH 18-1, NH 17-6, NH 17-8, NH 17-9, NH 17-11, and NH 17-12).

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risk of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by or on behalf of the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees being conducted as a part of, or in connection with, the programs and activities of the National Aeronautics and Space Administration (NASA), Kennedy Space Center and the Eastern Space and Missile Center. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, the agents, employees, or invitees of the lessee, its agents, or any independent contractors, or subcontractors doing business with the lessee in connection with the programs and activities of the NASA, Kennedy Space Center and the Eastern Space and Missile Center, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors or any of their officers, agents, or employees, and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the leased area or surrounding area of the lease, shall enter into an agreement with the Director, Kennedy Space Center and the Commander, Eastern Space and Missile Center, prior to commencing such traffic. Such agreement shall provide for positive control of boats, ships, and aircraft operating in the above designated areas and will provide for the avoidance of interference with the programs and activities of the NASA Kennedy Space Center and the Eastern Space and Missile Center.

(c) Upon recommendation by the Director, Kennedy Space Center and the Commander, Eastern Space and Missile Center, when the activities of the NASA Kennedy Space Center and Air Force Eastern Space and Missile Center may endanger personnel or property, the lessee agrees, upon receipt of notice from the Regional Supervisor, Offshore Field Operations (RSOFO), to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty-eight (48) hours or within such longer period as may be specified by the RSOFO. The RSOFO shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by subsequent notice from the RSOFO. Equipment and structures may remain in place on the lease during such time as the evacuation remains in effect.

(d) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from the leased area or surrounding area of the lease, in accordance with the requirements specified by the Director, Kennedy Space Center and the Commander, Eastern Space and Missile Center, to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the NASA Kennedy Space Center and the Eastern Space and Missile Center.

Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Director, Kennedy Space Center and the Commander, Eastern Space and Missile Center, provided, however, that control of such electromagnetic communication shall in no instance prohibit all manner of electromagnetic communications during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation No. 7

(Stipulation No. 7 covers the detection of undetonated explosives. The Minerals Management Service (MMS) has authority to require a lessee to do additional pre-drilling surveys to detect explosives, and would identify which blocks might need these additional surveys. Therefore, based on further consultation with the U.S. Environmental Protection Agency, MMS will determine which blocks will be subject to the stipulation, which will minimize the probability that any undetonated explosives would adversely affect drilling activities.)

If the Regional Supervisor, Offshore Field Operations (RSOFO) believes any unexploded ordnance (munitions, mines, bombs, etc.) may exist in a lease area, the lessee shall conduct remote sensing and/or other surveys as specified by the RSOFO to determine the existence of any unexploded ordnance. The lessee's report to the RSOFO should document all indications of magnetic or side-scan sonar anomalies on the sea floor.

Upon completing such surveys, the lessee shall forward a report and all pertinent data to the RSOFO for review. Such devices may adversely affect any activity or operation, such as the construction or placement of any structure for exploration or development on the lease, the lessee shall take no action until the RSOFO has given directions as to the conduct of that operation.

Stipulation No. 8

(To be included only in the leases resulting from this sale for the net profit share blocks listed in paragraph 4(a) of this notice.)

The net profit share payment specified in Sec. 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16-2/3 percent of the production saved, removed, or sold from the lease area may be taken in amount, except as provided in Sec. 15(d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

Stipulation No. 9

(To be included only in the leases resulting from this sale for the fixed sliding scale royalty blocks listed in paragraph 4(b) of this notice.)

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Minerals Management Service, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

14. Information to Bidders. (a) Revisions of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968.) Should those changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form, MMS-2005 (August 1982) would be deleted from leases resulting from this offering. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5 (a) (1) and 60-1.7 (a) (1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(b) Corps of Engineers permits are required for construction of any artifical islands, installations and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

(c) Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) Bidders are advised that the West Indian Manatee is a marine mammal which is officially listed as an endangered species by the Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (87 Stat. 884, 16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972, as amended (86 Stat. 1027, 16 U.S.C. 1361-1407), and various other State and Federal laws and regulations. On October 27, 1979, (44 FR 60963) the Department of the Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, the Florida Manatee Sanctuary Act of 1978 declares the entire State of Florida a "refuge and sanctuary for the manatees." A cooperative agreement between Interior and Florida on endangered species became effective on June 23, 1976. A similar cooperative agreement with the State of Georgia became effective on October 6, 1977. This marine mammal inhabits coastal and several inland waterways of the South Atlantic states. Because it is known to be particularly vulnerable to collisions with vessel traffic, care must be taken to avoid collisons between support vessels and manatees in vicinity of support bases.

Bidders are also advised that the right and humpback whales, in particular, and all other large whales occurring in the region are protected by the Endangered Species Act and/or the Marine Mammal Protection Act and various other Federal and State laws and regulations. Every reasonable effort must be made to avoid taking (the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct) whales, especially whales with calves, during the course of operations. By being made aware of this legal responsibility, lease holders can reduce or avoid the risk of their operations having an adverse effect on marine mammals and assure compliance with Federal laws.

(e) Bidders are advised that a portion of Block 983 (NI 18-2) is within the U.S.S. Monitor Marine Sanctuary. During the conduct of any activities related to a lease issued for this block, the lessee and its agents, contractors, and subcontractors will be subject to sanctuary regulations

(15 CFR 924) which generally prohibit activities such as anchoring, salvage and recovery, diving, dredging, detonation of explosives, drilling or coring, cable laying, trawling, and discharging waste materials within the confines of the Sanctuary. The U.S.S. Monitor Marine Sanctuary consists of a vertical column of water in the Atlantic Ocean 1 nautical mile in diameter extending from the surface of the seabed. The center of this water column is 35° 00' 23" north latitude and 75° 24' 32" west longitude.

(f) Bidders are advised that in accordance with section 16 of each lease issued as a result of this lease offering, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate, a royalty rate based on a sliding scale, or a net profit share payment.

(g) The following blocks were offered in Sale No. 56 and reoffered in Sale No. RS-2, but were not leased: (NI 18-7) Blocks 874, 875, 876, and 919. In Sales No. 56 and RS-2, these blocks were assigned a geologic hazards stipulation due to possible mass movement of sediments and shallow faulting. In this offering, lessees are informed that these blocks will not be assigned a geologic hazards stipulation, but the lessees are alerted to the possibility that mass movement of sediments could occur and shallow faults are present on the blocks listed. The lessees are also informed that this list may not be all inclusive as other blocks in this offering may contain these same geohazards.

(h) For those blocks listed in paragraph 13 as being offered for lease with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the Minerals Management Service either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

15. OCS Orders. Operations on all leases resulting from this offering will be conducted in accordance with the provisions of all Atlantic OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

16. New OCS Bid Adequacy Procedures.

The following system of OCS bid adequacy procedures will be used for this offering. The system is composed of two phases. Phase 1 includes market-oriented evaluation criteria for accepting some bids on blocks or bidding units and determining what other bids will receive further evaluation in Phase 2 according to the traditional bid adequacy procedures. Phase 2 utilizes an independent Government evaluation and the traditional bid adequacy rules based upon the Mean Range of Values (MROV), Discounted Mean Range of Values (DMROV), and Geometric Average Evaluation of the Tract (GAEOT) (a tract being a block or bidding unit).

Phase 1

Phase 1 is composed of criteria designed to partition blocks or bidding units receiving bids into three general categories:

* Those receiving bids which MMS has identified as being non-prospective blocks;

* Those where opportunities for strategic underbidding, information asymmetry, collusion, and other noncompetitive practices might most likely occur and where the Government has the most detailed and reliable data; and

* Those where the competitive market forces can be relied upon to assure fair market value.

It has been determined that the following four Phase 1 criteria will be applied:

1. High bids on all blocks or bidding units classified by MMS as being either development or drainage will be referred directly for further evaluation using the traditional criteria.

2. All legal high bids for blocks or bidding units judged by MMS to be not located on a viable prospect will be accepted.

3. After screening for anomalously low bids through application of the "one-eighth rule," [1/] legal high bids will be accepted for prospective wildcat and proven blocks or bidding units receiving three or more bids and more than the average number of bids for prospective blocks or bidding units bid upon in the offering, i.e., whichever is more.

4. After adjusting for anomalously low bids through application of the "one-eighth rule," all legal high bids will be accepted for prospective wildcat and proven blocks or bidding units where the geometric average bonus bid for the block or bidding unit is in the upper 50th percentile for prospective wildcat and proven blocks or bidding units receiving bids.

Phase 1 will be conducted block-by-block or bidding unit-by-bidding unit, and it is expected that Phase 1 should be completed within three days of the Bid Opening.

1/ Anomalously low bids will not be included in the bid number; e.g., if the lowest bid on a block or bidding unit is less than 1/8th of the next lowest bid, the lowest bid will not be included in the number of bids. This rule can exclude no more than one bid for a given block or bidding unit.

Phase 2

All prospective wildcat and proven blocks or bidding units which are not accepted as a result of the application of the Phase 1 criteria and all drainage and development blocks or bidding units will receive further evaluation via the traditional bid adequacy procedures currently in effect, i.e., high bids will be compared to the MROV, DMROV, and GADOT. While it is expected that most analyses would be undertaken based upon data available at the time of the offering, additional geological and geophysical analyses, including additional mapping, can be undertaken post-offering at the discretion of the Regional Manager.

The bid adequacy recommendations developed in Phase 2 should be completed within three weeks of the offering.

Since the inception of the OCS leasing program, the Department has continually sought to improve upon techniques which determine bid adequacy. Much of the best information regarding the fair market value of a block or bidding unit is that which is available through observing the market for leases. The above procedures are designed to make better use of that information.

[FR Doc. 83-7793 Filed 3-25-83; 8:45 am]
BILLING CODE 4310-MR-C

federal register

Monday
March 28, 1983

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 855]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 23, 1983

The following 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

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)
- 102-3: New onshore reservoir
- 102-5: New reservoir on old OCS 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.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS

ISSUED MARCH 23, 1983

VOLUME 855

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A F V ENERGY INC						RECEIVED: 02/22/83 JA: TX			
8324450	F-09-061557	4225700000		102-4		SHANAFELT #1	STRAHAN (STRAWN OIL)	16.4	SOUTHWESTERN GAS
-A L SAUDER JR						RECEIVED: 02/22/83 JA: TX			
8324361	F-09-041965	4249731395		108-ER		PERKINS-MITCHELL UNIT #1	BOONSVILLE (BEND CONG	11.0	LONE STAR GAS CO
-ALPAR RESOURCES INC						RECEIVED: 02/22/83 JA: TX			
8324469	F-10-062753	4235731310		102-4		MILDRED #23-141	LONE BUTTE (CLEVELAND	24.0	
-AMOCO PRODUCTION CO						RECEIVED: 02/22/83 JA: TX			
8324483	F-8A-063069	4221932965		103		MAY MONTGOMERY UNIT #53	LEVELLAND	0.8	AMOCO PRODUCTION
8324484	F-8A-063070	4221932987		103		MAY MONTGOMERY UNIT #56	LEVELLAND	0.3	AMOCO PRODUCTION
8324482	F-8A-063068	4221933652		103		MAY MONTGOMERY UNIT #60	LEVELLAND	0.3	AMOCO PRODUCTION
8324504	F-10-063261	4242130063		103		WALTER LASLEY #2	TEXAS HUGOTON	18.0	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY						RECEIVED: 02/22/83 JA: TX			
8324550	F-8A-63778	4210730726		103		GUY PRICE TR "A" #9	FORBES (GLORIETA)	2.5	
-ARKANSAS LOUISIANA GAS CO						RECEIVED: 02/22/83 JA: TX			
8324426	F-06-058986	4231530588		102-4 103		BRADEN #5	RODESSA (COTTON VALLE	100.0	ARKANSAS LOUISIAN
8324430	F-06-058998	4220330951		103	107-TF	TAYLOR #6	WASKOM (COTTON VALLEY	200.0	ARKANSAS LOUISIAN
-ARROWHEAD ENERGY CO						RECEIVED: 02/22/83 JA: TX			
8324529	F-7B-63700	4236731943		103		BODIFORD #1	LAZY BEND GAS (STRAWN	88.0	SOUTHWESTERN GAS
-ATAPCO						RECEIVED: 02/22/83 JA: TX			
8324475	F-08-062997	4230130316		107-DP		LINEBERY #1	TAFFHY (ATOKA)	1825.0	
-AUSTEX ENERGY CO INC						RECEIVED: 02/22/83 JA: TX			
8324523	F-7B-63677	4244733321		102-4		ROSS MCKNIGHT #1 (19182)	BUSH KNOBB (CADDO LOW	11.0	GREAT WESTERN GAS
-BILL FORNEY INC						RECEIVED: 02/22/83 JA: TX			
8329514	F-02-63513	4229733240		102-4		APPELL #1 RRC #N/A	OAKVILLE (WILCOX 9700	10.0	HOUSTON PIPE LINE
-BRANHAM-BOGGESS & ASSOCIATES						RECEIVED: 02/22/83 JA: TX			
8324477	F-01-063006	4216332884		103		BONNYE H HALM #1A	PEARSALL (AUSTIN CHAL	10.8	TIPPERARY CORP
-BRIGHT & COMPANY						RECEIVED: 02/22/83 JA: TX			
8324503	F-04-063209	4221521386		102-4 107-TF		HAMMAN "B" -1	MONTE CHRISTO (VICKSB	1000.0	TECO PIPELINE CO
-CARLA PETROLEUM INC						RECEIVED: 02/22/83 JA: TX			
8324581	F-7B-063187	4213334318		102-4		JACKSON #1	CARLA (DUFFER)	0.0	
-CHAMPLIN PETROLEUM COMPANY						RECEIVED: 02/22/83 JA: TX			
8324373	F-06-052398	4236500000		103	107-TF	CARTHAGE GAS UNIT 18 #4	CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
8324386	F-04-056014	4235532036		102-4 103		MOSLEY & DRYDEN "A" #1	STRATTON (G-9-10) PRO	592.0	TENNESSEE GAS PIP
-CHARLES H BENTLEY						RECEIVED: 02/22/83 JA: TX			
8324548	F-09-63775	4250335396		102-4		VAUGHAN #2	VAUGHAN MARBLE FALLS	164.0	SUN GAS TRANSMISS
-CHESTER R UPHAM JR						RECEIVED: 02/22/83 JA: TX			
8324431	F-7B-059010	4236300000		102-4		AIRPORT #1-T	ITTLESON (4300)	0.0	SOUTHWESTERN GAS
-CITIES SERVICE COMPANY						RECEIVED: 02/22/83 JA: TX			
8324533	F-05-63719	4222330353		103		BRANTLEY JACKSON SMACKOVER UT #4-3	BRANTLEY JACKSON (SMA	254.4	AMINOIL USA INC
-CLAYTON W WILLIAMS JR						RECEIVED: 02/22/83 JA: TX			
8324383	F-03-055878	4214900000		102-2		LENWOOD L SCHOLTZ UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8324384	F-03-055879	4214900000		102-2		ORVILLE HAYNIE UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8324374	F-03-052800	4214900000		102-2		WILBURN HACKEBEIL UNIT 1-A	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CLEAR FORK GAS CO						RECEIVED: 02/22/83 JA: TX			
8324476	F-7B-063004	4244733031		102-2		J H HARRIS "D" #4	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO
-CMC ENERGY INC						RECEIVED: 02/22/83 JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8324511	F-04-63427	4213100000		108		GARCIA #1 (086733)	ANACAUS (V-2)	3.9	TRANSCONENTAL GAS
8324518	F-04-63425	4213100000		108		V M BLUNK #2077040	BENAVIDES	2.0	ESPERANZA TRANSMI
-CONOCO INC				RECEIVED:		02/22/83 JA: TX			
8324472	F-08-062859	4238900000		108		FORD-GERALDINE UNIT #109 ID #21021	GERALDINE FORD	0.7	EL PASO NATURAL G
8324401	F-7B-057735	4243331472		103		RUTHERFORD "E" #4	FRANKIRK E (CANYON SA	6.2	CITIES SERVICE CO
8324518	F-08-63663	4238931301		103		W E BELL "44" #9 ID #27756	JESS BURNER (DELAWARE	40.2	EL PASO NATURAL G
8324544	F-7B-63767	4243331487		103		WEST FLOWERS UNIT #64 ID #11787	WEST FLOWERS (CANYON	2.2	CITIES SERVICE CO
-COOK PRODUCTION CO				RECEIVED:		02/22/83 JA: TX			
8324378	F-09-053868	4223700000		102-4		DICKENSON #1	DICKENSON (3950 STRAW	73.0	LONE STAR GAS CO
-CORDOVA RESOURCES INC				RECEIVED:		02/22/83 JA: TX			
8324493	F-7B-063127	4213334283		103		PIONEER TOWNSITE #1	EASTLAND COUNTY REGUL	28.1	SOUTHWESTERN GAS
-COSTA RESOURCES INC				RECEIVED:		02/22/83 JA: TX			
8324513	F-08-63460	4210332880		102-4		ADAMS #1 ID NO 26016	COSTA (TUBB)	182.5	INTER NORTH INC
-DALLAS PRODUCTION INC				RECEIVED:		02/22/83 JA: TX			
8324519	F-09-63665	4250335638		103		LITTLEPAGE #3 LEASE #19838	JEAN N (MISS)	9.0	GAS ASSOCIATED SY
-DELTA DRILLING CO				RECEIVED:		02/22/83 JA: TX			
8324527	F-7C-63684	4210500000		108		HENDERSON "A" #2 095698	OZONA CANYON	0.0	INTER NORTH INC
8324526	F-7C-63683	4243500000		108		SHURLEY #3 062009	SAWYER (CANYON)	0.0	INTER NORTH INC
-DIAMOND DRILLING CO				RECEIVED:		02/22/83 JA: TX			
8324380	F-05-054736	4228930485		102-4		R L KEY #1 (101741)	OAKWOOD (DEXTER)	108.0	DELHI GAS PIPELIN
-DIAMOND SHAMROCK CORPORATION				RECEIVED:		02/22/83 JA: TX			
8324535	F-10-63727	4229500000		108		MAE WRIGHT "D" 1-102 U&L	HIGGINS WEST	0.0	SOUTHWESTERN PUBL
-DIRKS PETROLEUM CORP				RECEIVED:		02/22/83 JA: TX			
8324461	F-02-061925	4202531701		103		SARA BATOT #5	RAGSDALE 8100'	250.0	TRANSCONTINENTAL
-DIVIDEND PRODUCTION CO				RECEIVED:		02/22/83 JA: TX			
8324554	F-7B-63785	4241734553		102-4		DAWSON-CONWAY 1-174	DAWSON-CONWAY (STRAWN	220.0	RAMPART NATURAL G
-EDWIN L COX				RECEIVED:		02/22/83 JA: TX			
8324589	F-08-063419	4210931637		102-4		COX #1	GERALDINE	360.0	
-EL PASO NATURAL GAS COMPANY				RECEIVED:		02/22/83 JA: TX			
8324375	F-10-052824	4221131217		108		MEEK #1	BUFFALO WALLOW GRANIT	51.1	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:		02/22/83 JA: TX			
8324494	F-06-063173	4218330522		102-4	107-TF	BERNICE SMITH MARTING #1	GLADEWATER S (HAYNESV	730.0	TEJAS GAS CORP
8324512	F-08-63456	4237134046		103		FORT STOCKTON UNIT #619	FORT STOCKTON (YATES	18.0	NUECES CO
8324448	F-03-061188	4207131322		102-4		GALVESTON BAY STATE 'A' #188	RED FISH REEF (AB-4)	400.0	ENTEX INC
8324467	F-04-062717	4226130549		102-4		MRS S K EAST 110 (ID PENDING)	RITA (6-F II A)	1140.0	NATURAL GAS PIPEL
-FLYNN ENERGY CORP				RECEIVED:		02/22/83 JA: TX			
8324478	F-02-063016	4229700000		102-4		HERRING RANCH 67 #2	MAXINE EAST (MATULA)	730.0	UNITED TEXAS TRAN
-GALAXY ENERGIES INC				RECEIVED:		02/22/83 JA: TX			
8324534	F-04-63722	4240900000		102-4		HERNANDEZ #1 ID NO 101705	SINTON WEST (3385)	62.0	UNITED GAS PIPELI
-GENESIS PETROLEUM CORP				RECEIVED:		02/22/83 JA: TX			
8324454	F-04-061785	4213136099		102-4		G C HINOJOSA #2-C	STARR BRITE W (5680')	255.0	HOUSTON PIPE LINE
-GETTY OIL COMPANY				RECEIVED:		02/22/83 JA: TX			
8324364	F-06-046426	4236500000		103	107-TF	BEALL-BARKSDALE #3	CARTHAGE (COTTON VALL	0.0	TEJAS GAS CORP
8324412	F-03-058454	4204100000		102-2		BILL BERGER #1	N BRYAN (GEORGETOWN)	250.0	FERGUSON CROSSING
8324389	F-04-056397	4247900000		102-4	107-TF	EL GATO #9	EL GATO (HIRSCH 8480)	0.0	TRANSCONTINENTAL
8324382	F-06-055267	4236500000		103	107-TF	HICKS GAS UNIT #3	CARTHAGE (COTTON VALL	0.0	DELHI GAS PIPELIN
8324381	F-08-055236	4230130347		107-DP		LUDEMAN "7-26" #2	BRUNSON RANCH (PENN L	365.0	INTRATEX GAS CO
8324429	F-08-058997	4237133853		102-4		P T HUDGINS "34" #1	OATES SW (DEVONIAN)	1642.0	INTRATEX GAS CO
8324421	F-08-058614	4237133853		103		P T HUDGINS "34" #1	OATES SW (DEVONIAN)	1642.0	
8324452	F-06-061613	4236500000		103	107-TF	R S MANGHAM #3	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
8324465	F-08-062393	4249531517		103		S M HALLEY #263	WEINER (COLBY SAND)	14.6	CABOT CORP
8324398	F-04-057614	4200700000		102-4		TEXAS STATE TRACT 212 #1	E TALLEY ISLAND (FRIO	300.0	VALERO TRANSMISSI
8324363	F-06-046423	4236500000		103	107-TF	TOMPKINS-SPENCER #3	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
8324366	F-06-047909	4236500000		103	107-TF	VERA HARRISON #2	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
8324367	F-06-047910	4236500000		103	107-TF	W F BEALL #4	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
8324387	F-03-056149	4205100000		102-2		W H GIESENSCHLAG "I" #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GRAHAM PRODUCTION CO				RECEIVED:		02/22/83 JA: TX			
8324474	F-03-062951	4248132392		102-4		PIERCE ESTATE #1	WHARTON WEST (FRIO 45	187.0	NATURAL GAS PIPEL
-GRAND BANKS ENERGY CO				RECEIVED:		02/22/83 JA: TX			
8324468	F-08-062730	4217331331		103	107-TF	EDMONDSON #4	CONGER SW (PENN)	0.0	INTER NORTH INC
8324441	F-08-060819	4217331329		103	107-TF	EDMONDSON "A" #4	CONGER SW (PENN)	0.0	INTER NORTH INC
-GROTHE BROTHERS				RECEIVED:		02/22/83 JA: TX			
8324505	F-7B-063283	4241734846		102-4		W C ALLEN #5 (19063)	BIRTHDAY (MORAN)	18.0	LONE STAR GAS CO
8324522	F-7B-63674	4241723880		102-4		W C ALLEN #6 (19063)	BIRTHDAY (MORAN)	26.0	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED:		02/22/83 JA: TX			
8324481	F-08-063060	4237134052		103		USM OIL CO #5	USM (QUEEN)	1.5	INTER NORTH INC
-HAILEY ENERGY				RECEIVED:		02/22/83 JA: TX			
8324502	F-7B-063197	4213334348		102-4		MASSENGILL #4A	LOYCE (STRAWN)	407.0	LONE STAR GAS CO
-HILL JOHN H				RECEIVED:		02/22/83 JA: TX			
8324488	F-7C-063116	4243532816		103	107-TF	HILL - EDWIN S MAYER "H-1"	SAWYER (CANYON)	511.0	LONE STAR GAS CO
8324491	F-7C-063720	4243532780		103	107-TF	HILL - EDWIN S MAYER "X-1"	SAWYER (CANYON)	292.0	LONE STAR GAS CO
8324434	F-7C-059965	4243532748		103	107-TF	HILL - EDWIN S MAYER JR B #1	SAWYER (CANYON)	317.8	LONE STAR GAS CO
8324490	F-7C-063118	4243500000		103	107-TF	HILL - EDWIN S MAYER JR J-1	SAWYER (CANYON)	408.8	LONE STAR GAS CO
8324487	F-7C-063114	4243532725		103	107-TF	HILL - MAY M RAY "F-1"	ALDWELL RANCH	416.1	LONE STAR GAS CO
8324500	F-7C-063185	4243532826		103	107-TF	HILL-EDWIN L MAYER, JR "DD-1"	LAWYER (CANYON)	277.4	LONE STAR GAS CO
8324489	F-7C-063117	4243532778		103	107-TF	HILL-EDWIN S MAYER JR "L-1"	SAWYER	189.8	LONE STAR GAS CO
8324498	F-7C-063183	4243532828		103	107-TF	HILL-EDWIN S MAYER JR "M-1"	SAYER (CANYON)	226.6	LONE STAR GAS CO
8324486	F-7C-063113	4243532777		103	107-TF	HILL-MAY M RAY "I-1"	ALDWELL RANCH (CANYON	178.6	LONE STAR GAS CO
8324499	F-7C-063684	4243532700		103	107-TF	HILL-WINNIE R ALDWELL TRUCT "C-1"	ALDWELL RANCH (CANYON	481.8	LONE STAR GAS CO
-HNG OIL COMPANY				RECEIVED:		02/22/83 JA: TX			
8324457	F-04-061853	4247932210		102-2	103	HIRSCH ESTATE "517" #1	BIG COWBOY (WILCOX 54	528.0	HOUSTON PIPE LINE
8324453	F-7C-061768	4243500000		103	107-TF	VANDERSTUCKEN "52" #6	SAWYER (CANYON)	75.0	INTRATEX GAS CO
-HUGHES & HUGHES				RECEIVED:		02/22/83 JA: TX			
8324446	F-04-061155	4247933188		103	107-TF	H S MEADOR #4	LAS TIENDAS (OLMOS)	140.0	HOUSTON PIPE LINE
8324447	F-04-061156	4247933187		103	107-TF	H S MEADOR #5	LAS TIENDAS (OLMOS)	140.0	HOUSTON PIPE LINE
-IMPERIAL RESOURCES INC				RECEIVED:		02/22/83 JA: TX			
8324507	F-03-063364	4216700000		102-2		IMPERIAL RESOURCES #1	HIGH ISLAND	600.0	UNITED TEXAS TRAN
-JOHN G MIDDLETON				RECEIVED:		02/22/83 JA: TX			
8324439	F-04-060229	4247932888		103		MIDDLETON #20-2 97021	LAS TIENDAS (OLMOS)	109.0	LONE STAR GAS CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:		02/22/83 JA: TX			
8324362	F-10-042376	4235700000		108-ER		SCHNEIDER C #1	PERRYTON WEST	19.0	INTER NORTH INC
-LAYTON ENTERPRISES INC				RECEIVED:		02/22/83 JA: TX			
8324540	F-8A-63754	4207931608		103		REED WRIGHT #C-8	LEVELLAND	8.9	CITIES SERVICE CO
-LIVEOAK PRODUCTION CO				RECEIVED:		02/22/83 JA: TX			
8324520	F-7B-63666	4208333066		102-4		A E RICHMOND #2-A	TRICKHAM (CROSSCUT LO	12.0	LONE STAR GAS CO
-MARATHON OIL COMPANY				RECEIVED:		02/22/83 JA: TX			
8324390	F-08-056624	4230100000		108		KYLE MINNIE -E- #1	MASON (DELAWARE SAND)	10.8	PHILLIPS PETROLEU
8324392	F-7C-056640	4210500000		108		UNIVERSITY L #5	AMIGO-SAN ANDRES	5.1	BIG LAKE GAS CORP
8324391	F-7C-056631	4210500000		108		UNIVERSITY M #6	AMIGO-SAN ANDRES	2.7	BIG LAKE GAS CORP
-MARSHALL EXPLORATION INC				RECEIVED:		02/22/83 JA: TX			
8324388	F-06-056296	4236531336		108		MAIZIE LYNCH #3	BELLE BOWER (TRAVIS P	12.0	TENNESSEE GAS PIP
8324425	F-06-058959	4220330865		103		SANDERS #1	WASKOM (TRAVIS PEAK-1	120.0	UNITED GAS PIPELI
8324395	F-06-057087	4240132483		103		STONE #2	PENN-GRIFFITH W (PETT	180.0	HENDERSON CLAY PR
-MASON ENERGIES INC				RECEIVED:		02/22/83 JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8324444	F-7B-061058	4214330480		102-2		SKILES 11 - API #42-143-30480	MORGAN MILLS	72.0	SOUTHWEST GAS PIP
-MCCORMICK OPERATING CO				RECEIVED:		02/22/83 JA: TX			
8324420	F-08-058606	4231732390		103		DOROTHY#1	SPRABERRY (TREND AREA	19.9	INTER NORTH INC
-MEADCO PROPERTIES				RECEIVED:		02/22/83 JA: TX			
8324462	F-7C-061969	4223531988		102-2		UT-40 A #1 RRC $ - NOT ASSIGNED	ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
-MELTON THOMAS C				RECEIVED:		02/22/83 JA: TX			
8324521	F-7B-63671	4213333669		102-4		JAMIE BARTON #1-A (103056)	BARTON (CADDO LOWER)	61.0	SOUTHWESTERN GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:		02/22/83 JA: TX			
8324564	F-09-63817	4249700000		108		B E BAKER #1 028560	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8324396	F-09-057234	4249700000		108		BOWMAN UNIT #1 #029114	BOONSVILLE (BEND CONG	13.8	LONE STAR GAS CO
8324424	F-7C-058915	4245131022		102-4	103	FREYSCHLAG UNIT A #1	K W B (STRAWN)	274.0	ESPERANZA PIPELIN
8324562	F-09-63798	4249700000		108-PB		G C BUSEY #3 028587	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8324433	F-09-059645	4249700000		108		J H BRIDGES #1 #028576	BOONSVILLE (BEND CONG	13.0	NATURAL GAS PIPEL
8324528	F-09-63688	4249700000		103		L W HOWARD #1 072486	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8324432	F-7B-059639	4236700000		108		M L EARP -B- #2 #095231	RENO (CONGL)	9.2	NATURAL GAS PIPEL
8324466	F-09-062637	4249700000		108		W L MACKEY #3 #037031	BOONSVILLE (BEND CONG	10.2	NATURAL GAS PIPEL
-MOLE OPERATING COMPANY INC				RECEIVED:		02/22/83 JA: TX			
8324479	F-7B-063021	4222100000		108		MORRISON 1-U	MCINTOSH (MARBLE FALL	2.2	WARREN PETROLEUM
-MONSANTO OIL CO				RECEIVED:		02/22/83 JA: TX			
8324530	F-08-63708	4247532714		103		HALL #3	RHODA WALKER (CANYON	51.0	
8324516	F-8A-63653	4250132116		103		SAM 449 #1	BRAHANEY	5.0	SHELL OIL CO
8324517	F-8A-63655	4250131974		103		SAM 449 #5	BRAHANEY	0.4	SHELL OIL CO
-MORAN EXPLORATION INC				RECEIVED:		02/22/83 JA: TX			
8324396	F-7C-056872	4238332028		103		UNIVERSITY "2" #1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-MEV-TEX OIL & GAS INC				RECEIVED:		02/22/83 JA: TX			
8324536	F-7B-63739	4208332005		108		ANNABELLE #2 (089187)	BERRYMAN (KICHI CREEK	9.0	EL PASO HYDROCARB
8324537	F-7B-63740	4208331561		108		DOROTHY FAYE #1 (080605)	BERRYMAN (KICHI CREEK	0.0	EL PASO HYDROCARB
8324538	F-7B-63741	4208331648		108		DOROTHY FAYE #2 (081594)	BERRYMAN (KICHI CREEK	5.0	EL PASO HYDROCARB
8324539	F-7B-63742	4208331761		108		DOROTHY FAYE #3 (083568)	BERRYMAN (KICHI CREEK	4.0	EL PASO HYDROCARB
-OLSEN ENERGY INC				RECEIVED:		02/22/83 JA: TX			
8324565	F-08-63818	4247532709		103		DORR #6	DORR (QUEEN SAND)	5.8	PGP GAS PRODUCTS
-PANHANDLE ENERGY CORP				RECEIVED:		02/22/83 JA: TX			
8324549	F-10-063776	4206531288		103		SHANNON #1 (ID #005245)	PANHANDLE CARSON	50.0	GETTY OIL CO
-PENNZOIL PRODUCING COMPANY				RECEIVED:		02/22/83 JA: TX			
8324455	F-06-061788	4236531476		103	107-TF	HULL A-26	CARTHAGE/COTTON VALLE	585.0	UNITED GAS PIPE L
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		02/22/83 JA: TX			
8324423	F-10-058643	4217931223		103		JOHNSON T #3	PANHANDLE GRAY	0.0	
-QUINTANA PETROLEUM CORP				RECEIVED:		02/22/83 JA: TX			
8324370	F-02-052030	4239131513		103		MAUDE WILLIAMS "A" D-117	LAKE PASTURE	84.0	UNITED TEXAS TRAN
8324371	F-02-052031	4239131518		103		MAUDE WILLIAMS "A" D-118	LAKE PASTURE (H-440 S	27.4	UNITED TEXAS TRAN
-RALPH L WAY INC				RECEIVED:		02/22/83 JA: TX			
8324542	F-7C-63759	4238300000		103		UNIVERSITY-UNION '17' #5	FARMER (SAN ANDRES)	9.4	INTER NORTH INC
8324541	F-7C-63758	4238332375		103		UNIVERSITY-UNION '17' #6	FARMER (SAN ANDRES)	208.8	INTER NORTH INC
-ROBERT P LAMMERTS				RECEIVED:		02/22/83 JA: TX			
8324443	F-03-060972	4204100000		102-2		DOOLEY #1	BRYAN (WOODBINE)	0.0	FERGUSON CROSSING
8324442	F-03-060970	4204100000		102-2		LIPSCOMB #1	KURTEN (WOODBINE)	0.0	FERGUSON CROSSING
-ROCKY MOUNTAIN RESOURCES INC				RECEIVED:		02/22/83 JA: TX			
8324492	F-7B-063125	4205900000		102-4		J H BALKUM #1	ROCKY MOUNTAIN COMYN	1.8	EL PASO HYDROCARB
-SAGE ENERGY CO				RECEIVED:		02/22/83 JA: TX			
8324458	F-03-061894	4214900000		102-2		FLECK #1 RRC #	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8324470	F-03-062771	4228700000		103		MATT #1 RRC #	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8324524	F-7C-63678	4238332344		103		UNIVERSITY 7-G #4 RRC #08830	FARMER (SAN ANDRES)	0.7	INTER NORTH INC
8324525	F-7C-63680	4238332330		103		UNIVERSITY 7-GA #7 RRC #08876	FARMER (SAN ANDRES)	0.9	INTER NORTH INC
-SAMEDAN OIL CORPORATION				RECEIVED:		02/22/83 JA: TX			
8324563	F-8A-63814	4216532417		103		SOUTH CENTRAL ROBERTSON UNIT #57	ROBERTSON NORTH/CLEAR	18.6	PHILLIPS PETROLEU
-SANDSTONE PETROLEUM CO				RECEIVED:		02/22/83 JA: TX			
8324515	F-10-63608	4223331432		103		JOHNSON #1	PANHANDLE	0.0	PHILLIPS PETROLEU
-SEELY OIL CO				RECEIVED:		02/22/83 JA: TX			
8324532	F-09-63713	4212130368		102-4		WATSON GAS UNIT #1 101064	LESLY S (CADDO)	380.0	NATURAL GAS PIPEL
-SHANE OIL CORP				RECEIVED:		02/22/83 JA: TX			
8324464	F-7B-061985	4242933433		102-2		COOK HEIRS #3	FRANKEL S (STRAWN)	105.0	WARREN PETROLEUM
-SHAR-ALAN OIL CO				RECEIVED:		02/22/83 JA: TX			
8324506	F-03-063289	4231330408		102-4		JEFF FARRIS #2	MADISONVILLE N E (GEO	0.0	LONE STAR GAS CO
-SHELL OIL CO				RECEIVED:		02/22/83 JA: TX			
8324372	F-10-052269	4229500000		108-ER		SHELL WHEAT #2-764	KIOWA CREEK	0.0	PHILLIPS PETROLEU
-SKLAR & PHILLIPS OIL CO				RECEIVED:		02/22/83 JA: TX			
8324379	F-06-054399	4242330550		103		JAMES WARREN ESTATE #1-A	CHAPEL HILL (PALUXY)	1.0	ETEXAS PRODUCERS
-SMW INC				RECEIVED:		02/22/83 JA: TX			
8324546	F-10-63770	4217931290		103		ALBERT #1 (ID #05267)	PANHANDLE GRAY	50.0	GETTY OIL CO
8324545	F-10-63769	4217931289		103		ALBERT #2 (ID #05267)	PANHANDLE GRAY	60.0	GETTY OIL CO
-SUGARBERRY OIL & GAS CORP				RECEIVED:		02/22/83 JA: TX			
8324558	F-7C-63791	4241331137		103		CASE #4	VELREX (HENDERSON UPP	76.7	FARMLAND INDUSTRI
8324559	F-7C-63792	4241331123		103		HARPER #2	VELREX (HENDERSON UPP	164.3	FARMLAND INDUSTRI
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		02/22/83 JA: TX			
8324463	F-04-061977	4242731655		103		A GUERRA -A- #4	SUN NORTH /7020 SAND/	116.0	
8324471	F-04-062794	4242731564		103		B G DE GARCIA #36	GARCIA (MILLER -A-)	25.0	TRANSCONTINENTAL
8324508	F-01-063395	4212732399		103		BIG WELLS (SAN MIGUEL) #4541	BIG WELLS (SAN MIGUEL	0.0	HOUSTON PIPELINE
8324556	F-01-63787	4212732405		103		BIG WELLS (SAN MIGUEL) UNIT #2032	BIG WELLS (SAN MIGUEL	43.0	HOUSTON PIPE LINE
8324555	F-01-63786	4212732406		103		BIG WELLS (SAN MIGUEL) UNIT #2034	BIG WELLS (SAN MIGUEL	36.0	HOUSTON PIPE LINE
8324557	F-01-63788	4212732594		103		BIG WELLS (SAN MIGUEL) UNIT #3328	BIG WELLS (SAN MIGUEL	5.0	HOUSTON PIPE LINE
8324393	F-04-056805	4204730989		102-4		D J SULLIVAN #12U	FLOWELLA	0.0	
8324496	F-08-063179	4213500000		108		EAST GOLDSMITH HOLT UNIT #31-3	GOLDSMITH EAST (HOLT)	3.0	PHILLIPS PETROLEU
8324497	F-08-063180	4213500000		108		EAST GOLDSMITH HOLT UNIT #7-2L	GOLDSMITH EAST (HOLT)	1.0	PHILLIPS PETROLEU
8324410	F-08-058233	4237133331		107-DP		GOMEZ DALCO UNIT #2	GOMEZ	556.0	VALERO INTERSTATE
8324365	F-10-047523	4221100000		108-ER		L P HUMPHREYS #1	CANADIAN SE DOUGLAS	17.0	PANHANDLE EASTERN
8324445	F-7C-061074	4210500000		108		SHANNON ESTATE -C- #1	HOELKE N E (QUEEN)	0.4	EL PASO NATURAL G
8324495	F-08-063178	4210300000		108		UNIVERSITY -L- #3	DUNE	0.4	PHILLIPS PETROLEU
8324440	F-02-060783	4246900000		108		W H BENNETT #7	HEYSER (5400 #3)	0.0	TENNESSEE GAS PIP
8324547	F-8A-63771	4207931586		103		WRIGHT UNIT #10-31	LEVELLAND	2.0	CITIES SERVICE CO
-SUN OIL CO				RECEIVED:		02/22/83 JA: TX			
8324360	F-04-012181	4224900000		108		SEELIGSON UNIT #42-78	SEELIGSON (ZONE 19B-0	22.0	TENNESSEE GAS PIP
-TARTAN OIL & GAS				RECEIVED:		02/22/83 JA: TX			
8324456	F-03-061797	4248100000		102-4		WITTIG #2	CRESCENT (5090)	180.0	ESPERANZA TRANSMI
-TEXACO INC				RECEIVED:		02/22/83 JA: TX			
8324403	F-08-057786	4243130937		102-4		COPE-ANDREWS UNIT #1	CONGER SW	235.8	VALERO TRANSMISSI
8324400	F-08-057712	4243130945		102-4		COPE-SEALE UNIT #1	CONGER S W	216.5	VALERO TRANSMISSI
8324418	F-08-058537	4243130949		102-4		E B COPE #1	CONGER SW	331.0	VALERO TRANSMISSI
8324402	F-08-057780	4243130935		102-4		E B COPE #1	CONGER S W	277.0	VALERO TRANSMISSI
8324411	F-08-058381	4243130948		102-4		E B COPE #3	CONGER S W	181.3	VALERO TRANSMISSI
8324428	F-08-057788	4243130947		102-4		E B COPE #4	CONGER SW	305.9	VALERO TRANSMISSI
8324399	F-08-057711	4243130934		102-4		E B COPE "B" #1	CONGER S W	330.4	VALERO TRANSMISSI
8324406	F-08-057816	4243130946		102-4		E B COPE "B" #2	CONGER SW	133.2	VALERO TRANSMISSI
8324405	F-10-057791	4248331017		103		P M KELLER #17	PANHANDLE WHEELER COU	0.8	PHILLIPS PETROLEU
8324427	F-10-058988	4248331016		103		P M KELLER #18	PANHANDLE WHEELER COU	1.5	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8324414	F-08-058533	4243130979		102-4		P T MAHAFFEY #1	CONGER SW	84.3	VALERO TRANSMISSI
8324416	F-08-058535	4243130983		102-4		STERLING "S" FEE #1	CONGER SW	0.0	VALERO TRANSMISSI
8324404	F-08-057789	4243131048		102-4		STERLING "T" FEE #1	CONGER SW	194.5	VALERO TRANSMISSI
8324419	F-08-058539	4243131055		102-4		STERLING "T" FEE #2	CONGER SW	195.6	VALERO TRANSMISSI
8324413	F-08-058532	4243131100		102-4		STERLING "T" FEE #3	CONGER SW	0.0	VALERO TRANSMISSI
8324417	F-08-058536	4243131099		102-4		STERLING "T" FEE #4	CONGER SW	0.0	VALERO TRANSMISSI
8324415	F-08-058534	4243131098		102-4		STERLING "U" FEE #1	CONGER S W	297.8	VALERO TRANSMISSI
-TEXAS CITY REFINING INC				RECEIVED:		02/22/83 JA: TX			
8324451	F-02-061570	4202531561		102-4		G T ROBERTS #1	TULETA SOUTH (1210) F	75.0	
-THE DOW CHEMICAL COMPANY				RECEIVED:		02/22/83 JA: TX			
8324407	F-03-057983	4248131703		103		POLEY BROUSSARD #2	MAGNET WITHERS	12.0	
8324408	F-03-057984	4248131694		103		H R BAKER #2	MAGNET WITHERS	60.0	
8324409	F-03-058038	4248131702		103		W E COFFEY #3	MAGNET WITHERS	14.0	
-THREE WAY ENERGY INC				RECEIVED:		02/22/83 JA: TX			
8324377	F-7B-053062	4213333675		102-4		HARBIN #1 ID#099645	THREE WAY (DUFFER)	48.0	LONE STAR GAS CO
-THROCKMORTON GAS SYSTEMS				RECEIVED:		02/22/83 JA: TX			
8324473	F-7B-062935	4244700000		102-2		TIMMS #1	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
-TONDU ENERGY CORP				RECEIVED:		02/22/83 JA: TX			
8324376	F-02-053011	4212300000		103		B M MCDOUGAL #1	KOENIG NORTH (WILCOX	182.0	VALERO TRANSMISSI
-TRINITY EXPLORATION CO				RECEIVED:		02/22/83 JA: TX			
8324368	7B-050636	4213300000		103		CHILDERS #2	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL GA
8324385	F-7B-055931	4213300000		102-2		J B HUNT #2	GREEN SHOW (UPPER CAD	0.0	ODESSA NATURAL GA
-TRIPLE J INVESTMENTS INC				RECEIVED:		02/22/83 JA: TX			
8324543	F-06-63765	4240100000		103		R W FAIR #2	TALIAFERRO (PETTIT UP	48.0	ARCO OIL & GAS CO
-TROJAN OIL PRODUCTION & SERVICES			IN	RECEIVED:		02/22/83 JA: TX			
8324553	F-7C-63783	4239932299		103		NORTHINGTON -B- #1 (09332)	BIG ED (GARDNER LIME)	1.0	LONE STAR GAS CO
8324551	F-7C-63781	4239932338		103		NORTHINGTON -B- #2 (09332)	BIG ED (GARDNER LIME)	22.0	LONE STAR GAS CO
8324552	F-7C-63782	4239931893		103		RUTH KING #1 (09004)	BIG ED (GARDNER LIME)	17.0	LONE STAR GAS CO
-TXO PRODUCTION CORP				RECEIVED:		02/22/83 JA: TX			
8324397	F-02-057557	4223931617		103		STAFFORD G U A-2	MORALES (3955')	0.0	DELHI GAS PIPELIN
8324422	F-02-058621	4223931804		102-4		WATSON B-3	MORALES (4430')	0.0	DELHI GAS PIPELIN
-W L LINDEMANN DRILLING CO				RECEIVED:		02/22/83 JA: TX			
8324485	F-09-063104	4207732761		102-4	103	BURNS-STARNES #1	TALLY (CONGLOMERATE)	438.0	TEXAS UTILITIES F
-WAINOCO OIL & GAS CO				RECEIVED:		02/22/83 JA: TX			
8324449	F-03-061549	4248131806		102-4		MERIWETHER #1	SPANISH CAMP SOUTH (3	90.0	UNITED TEXAS TRAN
-WAY OIL CO				RECEIVED:		02/22/83 JA: TX			
8324480	F-7B-063053	4236732324		102-4		WOODY #1	SHARPE (ATOKA)	85.0	SOUTHWESTERN GAS
-WESTERN HILLS OIL & GAS CO INC				RECEIVED:		02/22/83 JA: TX			
8324438	F-7B-060296	4236732303		102-2		FAIN #1 (ID NO APPLIED FOR)	H & R (BEND CONGL)	175.0	TEXAS UTILITIES F
-WESTHEIMER-NEUSTADT CORP				RECEIVED:		02/22/83 JA: TX			
8324369	F-10-051659	4219530778		102-4	103	BIRDWELL #1	WOODSTOCK (BROWN DOLO	100.0	PANHANDLE EASTERN
-WINN EXPLORATION/DULCE CO				RECEIVED:		02/22/83 JA: TX			
8324436	F-01-060247	4250731726		102-4		PRYOR RANCH #85-C	WINN-DULCE	0.0	INTER NORTH INC
8324435	F-01-060246	4250731726		102-4		PRYOR RANCH #85-T	WINN-DULCE	0.0	INTER NORTH INC
8324460	F-01-061921	4250731738		102-4		PRYOR RANCH #93-T	WINN-DULCE	0.0	INTER NORTH INC
8324459	F-01-061920	4250731738		102-4		PRYOR RANCH NO 93-C	WINN-DULCE	0.0	INTER NORTH INC
-WISENBAKER PRODUCTION CO				RECEIVED:		02/22/83 JA: TX			
8324437	F-05-060277	4216130578		103	107-TF	A W GEORGE B-2 PERMIT #126080	BURLESON HILLS (BOSSI	200.0	LONE STAR GAS CO
-ZUHONE WILLIAM H				RECEIVED:		02/22/83 JA: TX			
8324531	F-09-63711	4223700000		108		CHARLES H MORRISON #1	WILMAR (BEND)	0.4	CITIES SERVICE GA
-3 W OIL INC				RECEIVED:		02/22/83 JA: TX			
8324560	F-10-63794	4217931260		103		WEBSTER "A" (05270) #3	PANHANDLE GRAY COUNTY	3.0	GETTY OIL CO
8324561	F-10-63795	4217931259		103		WEBSTER "A" (05270) #4	PANHANDLE GRAY COUNTY	4.0	GETTY OIL CO

[FR Doc. 83-7872 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 856]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 23, 1983.

The following 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

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-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.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS VOLUME 856

ISSUED MARCH 23, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTHEIRS OIL INC				RECEIVED:	02/22/83	JA: OH			
8324566		3412724613		107-TF		ALTHEIRS OIL INC #1	SALT LICK TOWNSHIP	4.5	NICO-FIBERS INC
8324567		3412724614		107-TF		ALTHEIRS OIL INC #2	SALT LICK TOWNSHIP	4.5	NICO-FIBERS INC
8324568		3412724843		107-TF		KIENER #1	SALT LICK TOWNSHIP	5.0	NICO-FIBERS INC
8324569		3412725243		107-TF		PEABODY #1	SALT LICK TOWNSHIP	3.5	NICO-FIBERS INC
-ARAPAHO VENTURES OF NEW YORK INC				RECEIVED:	02/22/83	JA: OH			
8324570		3416725252		108		GOLDIE HAAS #1		3.0	COLUMBIA GAS TRAN
8324571		3416725606		108		GOLDIE HAAS #3	WILDCAT	1.2	COLUMBIA GAS TRAN
8324572		3416725607		108		GOLDIE HAAS #7	WILDCAT	4.0	COLUMBIA GAS TRAN
-ATWOOD ENTERPRISES INC				RECEIVED:	02/22/83	JA: OH			
8324573		3421222870		107-DV		LAWLEY-ROETTEIS #1	ELK	10.0	
-B & B OIL CO				RECEIVED:	02/22/83	JA: OH			
8324576		3416923429		107-TF		PAUL BRADLEY #1	MILTON	25.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY				RECEIVED:	02/22/83	JA: OH			
8324575		3410323128		103	107-TF	P LONG #1	WADSWORTH	8.0	YANKEE RESOURCES
-BKK PROSPECTING LTD				RECEIVED:	02/22/83	JA: OH			
8324574		3412122779		103		GRACE MANTEL #4	JEFFERSON	10.0	COLUMBIA GAS TRAN
-BPC DRILLING PROGRAM 82-A				RECEIVED:	02/22/83	JA: OH			
8324578		3412122858		107-DV		HILL #2	ENOCH	0.0	
8324577		3412122824		107-TF		MOHMAN #1		0.0	
-CANECO RESOURCES CORP				RECEIVED:	02/22/83	JA: OH			
8324579		3416923478		107-TF		AMSTUTZ #2	WILDCAT	0.0	COLUMBIA GAS TRAN
8324581		3416923497		107-DV		AMSTUTZ 15	WILDCAT	0.0	COLUMBIA GAS TRAN
8324580		3416923496		107-TF		ANDREW J HERSHBERGER #1	WILDCAT	0.0	COLUMBIA GAS TRAN
-CLARENCE K TUSSEL JR				RECEIVED:	02/22/83	JA: OH			
8324582		3400722013		103	107-TF	H SINCLAIR #1	KINGSVILLE	30.0	
-CLINTON OIL CO				RECEIVED:	02/22/83	JA: OH			
8324754		3408924042		103		CONRAD #1	HOPEWELL	10.0	
8324755		3408924043		103		CONRAD #2	HOPEWELL	10.0	
8324758		3411926551		103	107-TF	GRACE VICKERS #2-760	HIGHLAND	10.0	
8324756		3411926490		103	107-TF	HAROLD HELDON #1-758	LICKING	10.0	
8324757		3411926539		103	107-TF	M PROUTY #1-782	ADAMS	10.0	
-DAVID SHAFER OIL PRODUCERS INC				RECEIVED:	02/22/83	JA: OH			
8324583		3415321312		103		SCHWAGER #2	RICHFIELD	7.5	EAST OHIO GAS CO
-DERBY OIL & GAS CORP				RECEIVED:	02/22/83	JA: OH			
8324584		3405922962		107-TF		LYMAN KASTELIC #1	SPENCER	12.0	COLUMBIA GAS TRAN
8324586		3407523950		107-TF		RABER ETAL #2	CLARK	12.0	COLUMBIA GAS TRAN
8324585		3405922964		107-TF		THOMAS MOORE #1	SPENCER	12.0	COLUMBIA GAS TRAN
-DEVON PETROLEUM CORP				RECEIVED:	02/22/83	JA: OH			
8324587		3416770400		107-DV		FERNWOOD CORPORATION #1	DECATUR	9.0	COLUMBIA GAS TRAN
-DISCOVERY OIL LTD				RECEIVED:	02/22/83	JA: OH			
8324591		3416922738		107-TF		ELWOOD STOUT #2	CHIPPEWA	0.0	
8324588		3410322892		107-TF		IRWIN #1	SEVILLE	20.0	
8324589		3410322907		107-TF		JIRKA #1	LODI	20.0	
8324590		3410323202		107-TF		RICHARD LUDWIG #1	LODI	20.0	
-DOME ENERGY &Z				RECEIVED:	02/22/83	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8324595		3409321185		107-TF		BARTTER #4	COLUMBIA	15.0	COLUMBIA GAS TRAN
8324594		3409321184		107-TF		BARTTER #5	COLUMBIA	10.0	COLUMBIA GAS TRAN
8324593		3409321183		107-TF		BARTTER #6	COLUMBIA	15.0	COLUMBIA GAS TRAN
8324592		3403521165		107-TF		STONE #1	OLMSTED	10.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:	02/22/83	JA: OH			
8324602		3407523703		107-TF		DAN M YODER #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8324606		3411522771		107-TF		DANIEL ABER #1	MALTA	12.0	COLUMBIA GAS TRAN
8324601		3407523702		107-TF		DELBERT H SHETLER #1	WALNUT CREEK	12.0	COLUMBIA GAS TRAN
8324603		3408720277	D	107-DV		FLORENCE MILLER #1	FAYETTE	12.0	COLUMBIA GAS TRAN
8324596		3407522966		107-TF		JACOB MAST #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8324598		3407523695		107-TF		JONUS R YODER #1	CLARK	12.0	COLUMBIA GAS TRAN
8324597		3407523296		107-TF		MELVIN MEYERS #2	PRAIRIE	12.0	COLUMBIA GAS TRAN
8324604		3408720278	D	107-DV		MICHAEL KELLY #1	FAYETTE	12.0	COLUMBIA GAS TRAN
8324605		3408924398	D	107-TF		RICHARD SHELLY #1	BOWLING GREEN	12.0	COLUMBIA GAS TRAN
8324599		3407523697	D	107-TF		SMITH #1	PRAIRIE	12.0	COLUMBIA GAS TRAN
8324600		3407523699		107-TF		STANLEY R KINESE #1	PRAIRIE	12.0	COLUMBIA GAS TRAN
-DUSTY DRILLING COMPANY INC				RECEIVED:	02/22/83	JA: OH			
8324618		3411522523		107-TF		EDWARDS #1	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324620		3411522556		107-TF		EDWARDS #2	DEERFIELD	0.9	COLUMBIA GAS TRAN
8324612		3411522180		107-TF		FISHER #1	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324613		3411522182		107-TF		FISHER #3	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324621		3411522559		107-TF		FLEMING #1	DEERFIELD	0.9	COLUMBIA GAS TRAN
8324619		3411522555		107-TF		FLEMING #2	DEERFIELD	0.9	COLUMBIA GAS TRAN
8324614		3411522186		107-TF		HINKLE #3	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324615		3411522187		107-TF		HINKLE #4	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324607		3411521910		107-TF		J SIDWELL #1	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324610		3411522140		107-TF		J SIDWELL #2	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324611		3411522141		107-DP		J SIDWELL #3	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324617		3411522394		107-TF		MANLEY #1	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324616		3411522241		107-TF		MANLEY #4	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324609		3411522108		107-TF		MELRAGON #1	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324608		3411522097		107-TF		MELRAGON #2	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324622		3411522594		107-TF		THOMPSON #1	DEERFIELD	1.0	COLUMBIA GAS TRAN
8324623		3411522595		107-TF		THOMPSON #2	DEERFIELD	1.0	COLUMBIA GAS TRAN
-DWIGHT MARTIN				RECEIVED:	02/22/83	JA: OH			
8324624		3416923368		103	107-TF	MURPHY & HERMAN 10	CHESTER	0.0	
-EAGLE MOUNTAIN ENERGY CORP				RECEIVED:	02/22/83	JA: OH			
8324625		3410522569		107-DV		GLADYS HEINEY #1	OLIVE	20.0	COLUMBIA GAS TRAN
8324630		3411523049		103	107-TF	LACEY-JENKINS #1	BRISTOL	20.0	COLUMBIA GAS TRAN
8324629		3411522962		103	107-TF	LEEPER (BRISTOL) UNIT #1	BRISTOL	20.0	COLUMBIA GAS TRAN
8324627		3410522571		107-DV		NORTHERN LIGHT L S CHURCH #1	OLIVE	20.0	COLUMBIA GAS TRAN
8324626		3410522570		107-DV		WAYNE UPTON #1-A	OLIVE	20.0	COLUMBIA GAS TRAN
8324628		3410522616		107-DV		WYERS-LANDON #1	OLIVE	20.0	COLUMBIA GAS TRAN
-EARTH RESOURCES EXPL DEV CORP				RECEIVED:	02/22/83	JA: OH			
8324631		3415522100		103	107-TF	BERKHOUSE UNIT #1	BRISTOL	0.0	
8324632		3415522109		103	107-TF	WILSON #3	BRISTOL	0.0	
-EDCO DRILLING & PRODUCING INC				RECEIVED:	02/22/83	JA: OH			
8324633		3416922509		108		HOFSTETER BL-2A		18.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	02/22/83	JA: OH			
8324634		3405520216		103	107-RT	BYLER WELL #8	HUNTSBURG	19.0	COLUMBIA GAS TRAN
-ENNEY OILFIELD RENTAL CO				RECEIVED:	02/22/83	JA: OH			
8324635		3403124928		107-TF		B FOSTER #2	JACKSON	5.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED:	02/22/83	JA: OH			
8324639		3416320655		103	107-TF	BENEDICT #3	SWAN	36.5	COLUMBIA GAS TRAN
8324641		3416320769		103	107-TF	CROSON #1	SWAN	18.2	COLUMBIA GAS TRAN
8324640		3416320690		103	107-TF	D DAVIS #7	SWAN	36.5	COLUMBIA GAS TRAN
8324636		3400922615		103	107-TF	DRYDOCK COAL #16 TR	TRIMBLE	36.5	COLUMBIA GAS TRAN
8324637		3407322682		103	107-TF	SHEETS #1	WASHINGTON	18.2	COLUMBIA GAS TRAN
8324638		3407322693		103	107-TF	SHEETS #2	WASHINGTON	27.3	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	02/22/83	JA: OH			
8324643		3400922662		103	107-TF	DRYDOCK COAL #21 D	DOVER	18.2	
8324642		3400922657		103	107-TF	DRYDOCK COAL #22 TR	TRIMBLE	18.2	
8324644		3400922671		103	107-TF	DRYDOCK COAL #24 TR	TRIMBLE	18.2	
8324645		3400922701		103	107-TF	DRYDOCK COAL #30D	DOVER	18.2	
-FRANK A CSAPO JR				RECEIVED:	02/22/83	JA: OH			
8324675		3416923440		103	107-TF	GLEN & RICHARD MILLER #2	MILTON	18.0	COLUMBIA GAS TRAN
-FUTURE ENERGY CORPORATION				RECEIVED:	02/22/83	JA: OH			
8324677		3411528930		103	107-TF	GOINS #2	MALTA	30.0	
8324676		3411522892		103	107-TF	LOWE-MELLOR UNIT #3	MALTA	30.0	
-GASEARCH INC				RECEIVED:	02/22/83	JA: OH			
8324679		3415522277		103	107-TF	GROSSMAN #1	MESOPOTAMIA	0.0	YANKEE RESOURCES
8324678		3409921484		103	107-TF	NATIONAL NORTHERN INC (JACKSON) #3	JACKSON	20.0	YANKEE RESOURCES
-GREEN GAS COMPANY				RECEIVED:	02/22/83	JA: OH			
8324680		3416922323		107-TF		EUGEME FETZER #1	CANAAN	2.0	COLUMBIA GAS TRAN
8324682		3416923362		107-TF		MCILVAINE #1	CANAAN	25.0	COLUMBIA GAS TRAN
8324681		3416923361		107-TF		WARD #1	CHESTER	3.0	COLUMBIA GAS TRAN
-HATFIELD JOHN J				RECEIVED:	02/22/83	JA: OH			
8324692		3410323172		103	107-TF	RAMEY-TAYLOR #1	MONTVILLE	18.0	
-HAUGHT INC				RECEIVED:	02/22/83	JA: OH			
8324683		3416726046		103		SAMMY FRANCIS #1	GRANDVIEW DISTRICT	15.0	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED:	02/22/83	JA: OH			
8324685		3410521831		107-DV		F J STOBART ETAL #1	LEBANON	5.0	COLUMBIA GAS TRAN
8324686		3410522112		107-DV		ROY & LILLIAN PROFFITT #2	SUTTON	5.0	COLUMBIA GAS TRAN
8324684		3410521609		107-DV		THERON JOHNSON #1	LETART	7.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED:	02/22/83	JA: OH			
8324689		3403124892		107-TF		ERVIN D TROYER #6210	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
8324687		3403124895		107-TF		GLENN FLEMING #6183	COSHOCTON	4.0	COLUMBIA GAS TRAN
8324691		3403124918		107-TF		HARLAN MCCLEARY #6182	WEST LAFAYETTE	4.0	COLUMBIA GAS TRAN
8324688		3403124891		107-TF		HAROLD J MILLAR #6180	KEENE	2.0	COLUMBIA GAS TRAN
8324690		3403124898		107-TF		HELEN E MAST #1-22	CHILI	3.0	COLUMBIA GAS TRAN
-KENOIL				RECEIVED:	02/22/83	JA: OH			
8324693		3416923257		107-TF		DELBERT MOINE #1	CANAAN	6.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	02/22/83	JA: OH			
8324706		3412725719	D	107-TF		INES BELL #1	MONDAY CREEK	10.0	COLUMBIA GAS TRAN
8324707		3412725670		107-TF		JAMES MAY #1	HARRISON	10.0	COLUMBIA GAS TRAN
-LAFFERRE & MARTIN OIL CO				RECEIVED:	02/22/83	JA: OH			
8324694		3411121648		108		W R COSS FARM #10		2.4	RIVER GAS CO
-LAKE REGION OIL INC				RECEIVED:	02/22/83	JA: OH			
8324699		3416923477		103	107-TF	IRVIN & IDELLA GEISER #1	SUGAR CREEK	15.0	COLUMBIA GAS TRAN
8324695		3403124970		103	107-TF	JAMES & DAVID WARING #2	BETHLEM	15.0	COLUMBIA GAS TRAN
8324698		3407523944		103	107-TF	JONAS 557 MILLER #1	CLARK	15.0	COLUMBIA GAS TRAN
8324697		3407523943		103	107-TF	PAUL MILLER #1	CLARK	15.0	COLUMBIA GAS TRAN
8324696		3407523928		103	107-TF	WILLIS CHANAY #2	KILLBUCK	15.0	COLUMBIA GAS TRAN
-LARRY H WRIGHT INC				RECEIVED:	02/22/83	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8324708		3410522595		107-DV		EDISON HOLLON #1	SUTTON	10.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED:	02/22/83	JA: OH			
8324704		3411926527		103	107-TF	DOVE #1	MADISON	12.0	
-LESLIE OIL AND GAS CO INC				RECEIVED:	02/22/83	JA: OH			
8324705		3415522103		107-TF		H KAUFMAN #1	MESOPOTAMIA	20.0	YANKEE RESOURCES
-LOMAK PETROLEUM INC				RECEIVED:	02/22/83	JA: OH			
8324709		3413322904		107-TF		G LEJSEK #1	FREEDOM	20.0	COLUMBIA GAS TRAN
8324708		3411926102		107-TF		THOMAS-HORMAN UNIT #1	HARRISON	24.0	COLUMBIA GAS TRAN
-MORMACK INDUSTRY INC				RECEIVED:	02/22/83	JA: OH			
8324710		3416923321		107-TF		JOHN MILLER #1	SUGAR CREEK	30.0	COLUMBIA GAS TRAN
-MURPHY OIL CO				RECEIVED:	02/22/83	JA: OH			
8324711		3410522604		107-TF		MURPHY #1	RUTLAND	5.5	COLUMBIA GAS TRAN
-NEW FRONTIER EXPLORATION INC				RECEIVED:	02/22/83	JA: OH			
8324716		3412122926		103	107-TF	ASHTON WILLIAMS #1	NOBLE	22.0	YANKEE RESOURCES
8324718		3415123802		103	107-TF	CLARENCE JOHNSON #2	WASHINGTON	22.0	YANKEE RESOURCES
8324715		3412122920		103	107-TF	CLELA DELANCEY #2	SHARON	22.0	YANKEE RESOURCES
8324717		3415123795		103	107-TF	DONALD ROHR #4	WASHINGTON	22.0	YANKEE RESOURCES
8324721		3415723808		103	107-TF	ELEANOR WATSON #1	GOSHEN	0.0	YANKEE RESOURCES
8324713		3411926515		103	107-TF	HARRY MASON #1	UNION	0.0	YANKEE RESOURCES
8324714		3411926523		103	107-TF	HARRY MASON #3	UNION	18.0	YANKEE RESOURCES
8324712		3405923412		103	107-TF	ROBERT CORNELL #2	LIBERTY	0.0	YANKEE RESOURCES
8324720		3415723793		103	107-TF	ROBERT WILCOXON #1	FAIRFIELD	0.0	YANKEE RESOURCES
8324719		3415123806		103	107-TF	RUSSELL SMITH #2	WASHINGTON	0.0	YANKEE RESOURCES
-OHIO NATURAL FUEL CO				RECEIVED:	02/22/83	JA: OH			
8324722		3403124251		107-TF		OLINGER #2	JACKSON	30.0	COLUMBIA GAS TRAN
-OHIO PURE OIL CORP				RECEIVED:	02/22/83	JA: OH			
8324724		3407523976		103		STITZLEIN A-1	WASHINGTON	3.0	
8324723		3400523547		103		YOUNG A-3	LAKE	9.0	
-OXFORD OIL CO				RECEIVED:	02/22/83	JA: OH			
8324760		3407523819		103		GORDON BETTIS #2	KILLBUCK	11.0	COLUMBIA GAS TRAN
8324759		3403124893		107-TF		SAMUEL YURJEVIC #1	KEENE	11.0	
8324761		3411122935		107-DV		WALDINE BEARDMORE #2A	FRANKLIN	10.0	
-PARTNERS PETROLEUM INC				RECEIVED:	02/22/83	JA: OH			
8324726		3413322941		107-TF		JIROUSEK #1	MANTUA	16.4	YANKEE RESOURCES
8324725		3413322937		107-TF		KLINE #1	SHALERSVILLE	81.0	YANKEE RESOURCES
-PEPPER OIL CO				RECEIVED:	02/22/83	JA: OH			
8324762		3411926454		103	107-TF	DURST #2	NEWTON	10.0	COLUMBIA GAS TRAN
-PROVIDENT OIL & GAS				RECEIVED:	02/22/83	JA: OH			
8324728		3415321281		107-TF		HARTMAN #1	RICHFIELD	36.0	
8324727		3415321243		107-TF		HARTMAN #2	RICHFIELD	36.0	
-PYRAMID OIL OF AMERICA				RECEIVED:	02/22/83	JA: OH			
8324729		3410322810	D	107-TF		SHANIGAN-DANTE UNIT #1	LAFAYETTE	30.0	
-QUAKER STATE OIL REFINING CORP				RECEIVED:	02/22/83	JA: OH			
8324732		3407322734		103		SUNDAY CREEK COAL #42	WARD	11.0	COLUMBIA GAS TRAN
8324730		3407322618		103		SUNDAY CREEK COAL #45	WARD	11.0	COLUMBIA GAS TRAN
8324731		3407322726		103		SUNDAY CREEK COAL #61	WARD	5.5	COLUMBIA GAS TRAN
-RED HILL DEVELOPMENT				RECEIVED:	02/22/83	JA: OH			
8324659		3415722543		108		A GRAFE - #1		3.0	
8324674		3415723537		108		B WIDDER - #1		6.0	
8324647		3415722186		108		C BLEININGER - #1		2.0	
8324672		3415722803		108		C HENNEY - #1		8.0	
8324662		3415722606		108		C RIEL - #1		4.0	
8324666		3415722672		108		C TATE-#1		7.0	
8324650		3415722425		108		CASEBEER - #1		2.0	
8324655		3415722448		108		D BIXLER - #1		4.0	
8324665		3415722671		108		D C ENTERPRISE - #1		8.0	
8324658		3415722537		108		D KNEUSS - #1		8.0	
8324673		3415723125		108		D SCHNEBELEN - #1		8.0	
8324657		3415722536		108		E LAHMERS - WELL #1		3.0	
8324663		3415722607		108		F KARL - #1		12.0	
8324670		3415722798		108		F WIELAND - #1		9.0	
8324652		3415722435		108		FONDRIEST - #1		4.0	
8324669		3415722785		108		G KIMBLE - #1		3.0	
8324671		3415722802		108		H CASEBEER - #3		9.0	
8324654		3415722447		108		H HOWARD - #1		2.0	
8324664		3415722623		108		H OWENS - #1		5.0	
8324653		3415722446		108		HOLMES LAND CO - #1		3.0	
8324668		3415722674		108		K SWIHART - #1		6.0	
8324661		3415722605		108		L CASEBEER - #2		2.0	
8324648		3415722214		108		MELVIN MILLER - #1		13.0	
8324649		3415722219		108		P LADRACH - #1		8.0	
8324651		3415722433		108		R LAHMERS #1		2.0	
8324656		3415722465		108		RED HILL - #1		4.0	
8324660		3415722591		108		U KERN - #1		11.0	
8324646		3415722189		108		V HISRICH - #2		7.0	
8324667		3415722673		108		WM MARINO - #1		7.0	
-RICHARD W ULLMAN				RECEIVED:	02/22/83	JA: OH			
8324735		3411523039		107-TF		COOK 1	CHESTERHILL	1.8	COLUMBIA GAS TRAN
8324734		3411522981		107-TF		COOK 2A	CHESTERHILL	1.8	COLUMBIA GAS TRAN
8324733		3411522780		107-TF		G WILLIAMS #1	EAGLE PORT	1.8	COLUMBIA GAS TRAN
-ROBERT W ORR JR				RECEIVED:	02/22/83	JA: OH			
8324736		3411922529		103	107-TF	STRAITON LAND CO #1	DRESDEN - SOUTH	18.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED:	02/22/83	JA: OH			
8324743		3416727225		107-DV		LONGFELLOW #7	GRANDVIEW	14.6	
-SHELDON L TURRILL				RECEIVED:	02/22/83	JA: OH			
8324745		3416923236		103	107-TF	J D MILLER #1	PAINT	10.0	COLUMBIA GAS OF O
8324744		3416923235		103	107-TF	J J HERSHBERGER #1	PAINT	10.0	COLUMBIA GAS OF O
-SHONGUM OIL & GAS INC				RECEIVED:	02/22/83	JA: OH			
8324748		3407523846		103	107-TF	BEACH MILLER #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8324749		3411926082		107-TF		BRYCE LAPP #3A	SALEM	12.0	COLUMBIA GAS TRAN
8324746		3407523769		107-TF		ELI B YODER #1	BERLIN	12.0	COLUMBIA GAS TRAN
8324750		3412122905		107-DV		GEORGE TOMCHO #1	NOBLE	12.0	COLUMBIA GAS TRAN
8324747		3407523811		107-TF		SKYVIEW BAPTIST RANCH INC #1	HARDY	12.0	COLUMBIA GAS TRAN
-SMITH LAWRENCE M				RECEIVED:	02/22/83	JA: OH			
8324701		3416700811		108		GEORGIA R ANTILL #1	LIBERTY TWP	4.0	RIVER GAS CO
8324702		3416700812		108		GEORGIA R ANTILL #2	LIBERTY TWP	4.0	RIVER GAS CO
8324703		3416700813		108		GEORGIA R ANTILL #3	LIBERTY TWP	4.0	RIVER GAS CO
-SOUTHERN TRIANGLE OIL CO INC				RECEIVED:	02/22/83	JA: OH			
8324742		3412723264		108		SIMMONS #1		0.3	FORAKER GAS CO IN
8324739		3412723581		108		UNDERWOOD #1	NEW LEXINGTON	0.1	FORAKER GAS CO IN
8324738		3412723583		108		UNDER WOOD #2	NEW LEXINGTON-SOUTHEA	0.1	FORAKER GAS CO IN
8324740		3412723582		108		UNDERWOOD #3	NEW LEXINGTON-SOUTH	0.1	FORAKER GAS CO IN
8324741		3412723580		108		UNDERWOOD #4	NEW LEXINGTON - SOUTH	0.1	FORAKER GAS CO IN
8324737		3412723579		108		UNDERWOOD #5	NEW LEXINGTON SOUTH	0.1	FORAKER GAS CO IN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-STRATA CORP				RECEIVED:	02/22/83	JA: OH			
8324751		3400922440		107-TF		LARRY RUSSELL #1	CARTHAGE	6.0	
8324752		3400922652		107-TF		RALPH SMITH #1	ROME	7.0	
8324753		3400922711		107-TF		RUFF #1	ROME	5.0	
-TIGER OIL INC				RECEIVED:	02/22/83	JA: OH			
8324764		3412725794		103		F CRANDELL #1	THORN	5.0	NATIONAL GAS & OI
8324763		3411122637		107-DV		M SHEETS #2	WASHINGTON	3.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED:	02/22/83	JA: OH			
8324772		3405923419		103	107-TF	BONIPHANT B #3	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324771		3405923409		103	107-TF	CRISLIP J #6	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324774		3405923428		103	107-TF	DOMBROSKI #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324765		3405923326		103	107-TF	LAPP M & A #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324773		3405923423		103	107-TF	REVENS J #2	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324770		3405923406		103	107-TF	TOLAND #2	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324769		3405923405		103	107-TF	VANFOSSEN F #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324767		3405923389		103	107-TF	WHITELEY C #4	LONDONDERRY	27.0	TENNESSEE GAS PIP
8324766		3405923384		103	107-TF	WHITELEY C #5	OXFORD	27.0	TENNESSEE GAS PIP
8324768		3405923393		103	107-TF	WHITELEY C #6	OXFORD	27.0	TENNESSEE GAS PIP
-W E SHRIDER CO				RECEIVED:	02/22/83	JA: OH			
8324775		3411926398		107-TF		BRADLEY-STOTTS #2	LICKING	3.0	NATIONAL GAS & OI
-W J LYDIC INC				RECEIVED:	02/22/83	JA: OH			
8324777		3411122301		107-DV		BUTLER #1	OHIO	40.0	COLUMBIA GAS TRAN
8324776		3411122230		107-DV		HARP-LANCASTER #3A	JACKSON	35.0	COLUMBIA GAS TRAN
8324779		3411122899		107-DV		KURTZMAN #1A	SALEM	40.0	COLUMBIA GAS TRAN
8324778		3411122814		107-DV		MARTIN #1	LEE	500.0	COLUMBIA GAS TRAN

[FR Doc. 83-7873 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 857]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 23, 1983.

The following 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).

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 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices are 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.

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–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: Ehanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS

VOLUME 857

ISSUED MARCH 23, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-KENTUCKY WEST VIRGINIA GAS CO				RECEIVED:	02/23/83	JA: KY			
8324999	504255	1607100000		107-DV		A R MUSIC - #6651	KENTUCKY EAST	1.8	
8325006	504262	1607100000		107-DV		AMANDA BAKER - #6662	KENTUCKY EAST	4.7	
8324997	504253	1607100000		107-DV		BIG MUD COAL CO #6649	KENTUCKY EAST	15.5	
8325007	504263	1619300000		107-DV		ELIJ HOLIDAY - #6663	KENTUCKY EAST	5.4	
8325018	504274	1619300000		107-DV		ELIJ HOLIDAY - #6680	KENTUCKY EAST	5.4	
8325011	504267	1619300000		107-DV		FIELDEN COMBS - #6670	KENTUCKY EAST	11.1	
8325010	504266	1615900000		107-DV		J G CARLISLE JR #6669	KENTUCKY EAST	5.3	
8325000	504256	1607100000		107-DV		J M PORTER - #6652	KENTUCKY EAST	86.7	
8325012	504268	1607100000		107-DV		J M PORTER - #6671	KENTUCKY EAST	7.6	
8325016	504272	1619300000		107-DV		J R COMBS HRS - #6678	KENTUCKY EAST	5.1	
8325001	504257	1619500000		107-DV		J W VICARS #6653	KENTUCKY EAST	8.1	
8325002	504258	1619300000		107-DV		JAMES DOBSON - #6654	KENTUCKY EAST	2.9	
8325008	504264	1607100000		107-DV		JASPER JOHNSON - #6666	KENTUCKY EAST	2.8	
8325003	504259	1619300000		107-DV		JOHN L COMBS - #6656	KENTUCKY EAST	2.8	
8325005	504261	1611900000		107-DV		JOHN SMITH - #6661	KENTUCKY EAST	13.0	
8324996	504252	1619300000		107-DV		JOSEPH HURT - #6645	KENTUCKY EAST	6.2	
8324995	504251	1619300000		107-DV		LEWIS FELTHER - #6643	KENTUCKY EAST	4.3	
8325019	504275	1611900000		107-DV		ROBERT COMBS - #6682	KENTUCKY EAST	9.9	
8325014	504270	1619300000		107-DV		S M HAPIER - #6673	KENTUCKY EAST	1.5	
8325017	504273	1611900000		107-DV		SAM FUGATE - #6679	KENTUCKY EAST	8.4	
8325004	504260	1611900000		107-DV		SAMUEL FUGATE - #6660	KENTUCKY EAST	5.9	
8324998	504254	1607100000		107-DV		T J ROBERTSON - #6650	KENTUCKY EAST	5.4	
8325009	504265	1611900000		107-DV		W A COMBS - #6668	KENTUCKY EAST	0.8	
8325015	504271	1619300000		107-DV		WADE COMBS - #6675	KENTUCKY EAST	9.0	
8325013	504269	1619300000		107-DV		WM DOBSON - #6672	KENTUCKY EAST	13.4	
LOUISIANA OFFICE OF CONSERVATION									
-AMERADA HESS CORPORATION				RECEIVED:	02/24/83	JA: LA			
8324933	82-0609	1709901596		108		SCH L&S CO #3-D M-2 SUA	LAKE CHICOT	13.9	FLORIDA GAS TRANS
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	02/24/83	JA: LA			
8324975	82-0746	1705721545		103		LAFOURCHE REALTY #4	EAST GOLDEN MEADOW	355.0	SOUTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	02/24/83	JA: LA			
8324930	82-0641	1705721729		103		HARANG R/A B #41	VALENTINE	146.0	COLUMBIA GAS TRAN
8324880	82-0351	1706320059		107-DP		P E MARTIN JR #1 16700 TUSC RA SU F	LOCKHART CROSSING	2190.0	SOUTHERN NATURAL
8324931	82-0639	1705320708		103		W E WALKER #13-D SJU SU	SOUTH JENNINGS	328.0	UNITED GAS PIPELI
-AUSTRAL OIL CO INC				RECEIVED:	02/24/83	JA: LA			
8324836	83-24836	1704520718		102-4		BROWN-ODOM #1	BLACK BAYOU SOUTH	730.0	
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	02/24/83	JA: LA			
8324929	82-0656	1711321074		103		ALVIE BROUSSARD #1 11400' A SUA	RICEVILLE	550.0	TRUNKLINE GAS CO
-BETHLAM PRODUCTION CORP				RECEIVED:	02/24/83	JA: LA			
8324853	82-0902	1707321798		103		COLE HEIRS #2	MONROE GAS FIELD	24.5	IMC PIPELINE CO I
8324943	82-0903	1707321799		103		COLE HEIRS #3	MONROE GAS FIELD	25.2	IMC PIPELINE CO I
8324942	82-0904	1707321800		103		COLE HEIRS #4	MONROE GAS FIELD	26.7	IMC PIPELINE CO I
8324941	82-0905	1707321801		103		COLE HEIRS #5	MONROE GAS ROCK	27.7	IMC PIPELINE CO I

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8324940	82-0906	1707321820		103		COLE HEIRS #6	MONROE GAS	29.0	IMC PIPELINE CO I
8324939	82-0907	1707321821		103		COLE HEIRS #7	MONROE GAS ROCK	30.3	IMC PIPELINE CO I
8324990	82-0908	1707321822		103		COLE HEIRS #8	MONROE GAS FIELD	31.0	IMC PIPELINE CO I
8326857	82-0898	1707321769		103		MOBIL #2	MONROE GAS	21.2	MID LOUISIANA GAS
8324854	82-0901	1707321776		103		MOBIL #5	MONROE GAS ROCK	21.9	MID LOUISIANA GAS
8324856	82-0899	1707321770		103		MOBILE #3	MONROE GAS	23.7	MID LOUISIANA GAS
8324855	82-0900	1707321771		103		MOBILE #4	MONROE GAS	27.4	MID LOUISIANA GAS
-BIEDENWARN				RECEIVED:	02/24/83	JA: LA			
8324882	82-0349	1707321064		108		GEORGE SMELSER	MONROE	0.0	IMC PIPELINE CO I
8324881	82-0350	1707321065		108		WALLACE PRATT #1	MONROE	0.0	IMC PIPELINE CO I
-CONOCO INC				RECEIVED:	02/24/83	JA: LA			
8324960	82-0829	1703920236		103		EVANGELINE SECURITY CO #4	VILLE PLATTE	10.0	LOUISIANA INTRAST
-CRYSTAL OIL CO				RECEIVED:	02/24/83	JA: LA			
8324915	82-0682	1701521640		102-4	107-TF	BARNETT #2	ARKANA	21.9	ARKANSAS LOUISIAN
8324909	82-0665	1701521609		102-4	107-TF	HAMITER "E" #1 HAY RA SUE	ARKANA	794.6	ARKANSAS LOUISIAN
8324911	82-0443	1701521619		102-4	107-TF	MCWILLIAMS #1 HAY RA SUF	ARKANA	547.5	ARKANSAS LOUISIAN
8324959	82-0830	1701521635		103		SECTION 17 #2 ALT HOSS TP SUE	SLIGO	409.4	ARKANSAS LOUISIAN
8324912	82-0442	1701521611		102-4	107-TF	SPEARS "A" #1 HAY RA SUN	ARKANA	985.5	ARKANSAS LOUISIAN
-DALLAS PRODUCTION INC				RECEIVED:	02/24/83	JA: LA			
8324919	82-0182	1706120280		102-4		NORRIS #1	CALHOUN	889.9	
-DAMSON OIL CORPORATION				RECEIVED:	02/24/83	JA: LA			
8324918	82-0230	1701722439		102-4		DORIS E HOLT #1 PET RA SUA	VIVIAN NORTH (RODESSA	158.0	ARKANSAS LOUISIAN
-DARSEY OPERATING CORP				RECEIVED:	02/24/83	JA: LA			
8324983	82-1040	1709720629		103		G P BOAGNI #1 VUA	SHUTESTON	200.0	LOUISIANA INTRAST
-DONALD J ZADECK				RECEIVED:	02/24/83	JA: LA			
8324843	82-0257	1703121589		103		WILLAMETTE-HOLMES #1 U HOSS RA SUW	BELLE BOWER 1408	200.0	ARKANSAS LOUISIAN
-DYNAMIC EXPLORATION INC				RECEIVED:	02/24/83	JA: LA			
8324993	82-2345	1711321219		102-4		DUHON #2-D	GROSSE ISLE	393.0	
-EQUITABLE PETROLEUM CORP				RECEIVED:	02/24/83	JA: LA			
8324837	82-2405	1709920940		102-4		IBERVILLE LAND CO #1	HAPPYTOWN	0.0	TRANSCONTINENTAL
-ERGON INC				RECEIVED:	02/24/83	JA: LA			
8324848	82-0694	1711123358		103	107-TF	C W EDWARDS #1	MONROE	11.5	TEXAS GAS TRANSMI
8324978	82-0782	1711123461		103	107-TF	C W EDWARDS #2	MONROE	9.3	TEXAS GAS TRANSMI
8324849	82-0693	1711122959		103	107-TF	G L STRINGER #1 VUX	MONROE	14.0	TEXAS GAS TRANSMI
8324888	82-0522	1711123445		103	107-TF	GENIE MARONEY #1	MONROE	9.9	TEXAS GAS TRANSMI
8324948	82-0872	1711123394		103	107-TF	J K PARKS #1	MONROE	10.9	TEXAS GAS TRANSMI
8324891	82-0519	1711123386		103	107-TF	J L REA #1 VUY	MONROE	10.2	TEXAS GAS TRANSMI
8324950	82-0870	1711123469		103	107-TF	JACK P DEAN #1	MONROE	12.1	TEXAS GAS TRANSMI
8324969	82-0783	1711123535		103	107-TF	LILLIAN EDWARDS #1	MONROE	9.9	TEXAS GAS TRANSMI
8324947	82-0873	1711123508		103	107-TF	MAUREEN BARRON #2	MONROE	11.5	TEXAS GAS TRANSMI
8324889	82-0521	1711123425		103	107-TF	TOBY MEDLIN #2 VUQ	MONROE	9.9	TEXAS GAS TRANSMI
8324890	82-0520	1711123424		103	107-TF	W C CROW #1	MONROE	13.3	TEXAS GAS TRANSMI
-EXCALIBUR RESOURCES INC				RECEIVED:	02/24/83	JA: LA			
8324989	82-0915	1701724348		103		EGAN-WEBB #1	CASPIANA	82.1	ARKANSAS LOUISIAN
-EXCHANGE OIL & GAS CORPORATION				RECEIVED:	02/24/83	JA: LA			
8324937	82-3740	1770500006		102-4		S/L 3762 #2	VERMILION BLOCK 16	400.0	TRANSCONTINENTAL
-EXXON CORPORATION				RECEIVED:	02/24/83	JA: LA			
8324962	82-0826	1710922368		103		LATERRE CO INC #39	LIRETTE	1130.0	COLUMBIA GAS TRAN
-FRANKS & PETROFUNDS INC				RECEIVED:	02/24/83	JA: LA			
8324980	82-1014	1701320526		103		CON CAN NO X-1 ALT HOSS A SUT	WEST BRYCELAND	270.0	LOUISIANA GAS PUR
8324978	82-1023	1711920345		103		ETHEL D TALTON #1 HOSS B RA SUC	ADA	350.0	LOUISIANA GAS INT
8324981	82-1013	1701320520		103		HAMMER EST A #1 HOSS A SUFF	WEST BRYCELAND	970.0	LOUISIANA GAS PUR
8324971	82-0775	1701320518		103		J D SMITH D #1-ALT HOSS B SUV	SAILES	360.0	LOUISIANA GAS PUR
8324979	82-1015	1711920318		103		T C BLOXOM #1-D ALT HOSS B SUK	SIBLEY	220.0	UNITED GAS PIPELI
-FRANKS PETROLEUM INC ETAL				RECEIVED:	02/24/83	JA: LA			
8324984	82-1012	1711920318		103		T C BLOXOM #1 HOSS A SUK	SIBLEY	110.0	UNITED GAS PIPELI
-GAS RESOURCES INC				RECEIVED:	02/24/83	JA: LA			
8324899	82-0076	1711122064		108		EXXON #1	MONROE GAS	22.0	IMC EXPLORATION C
8324878	82-0551	1711123224		108		EXXON #23	MONROE GAS	7.0	IMC EXPLORATION C
8324877	82-0552	1711123225		108		EXXON #24	MONROE GAS	15.0	IMC EXPLORATION C
8324876	82-0553	1711123218		108		EXXON #26	MONROE GAS	8.0	IMC EXPLORATION C
8324934	82-0554	1711123222		108		EXXON #28	MONROE GAS	16.0	IMC EXPLORATION C
-GETTY OIL COMPANY				RECEIVED:	02/24/83	JA: LA			
8324841	82-0261	1712720726		103		E GRIFFIN 11-16 #1	CALVIN	16.0	LOUISIANA INTRAST
8324892	82-0489	1703100000		103		H T POWELL #2 HOSS RU FF	LOGANSPORT	0.0	TENNESSEE GAS PIP
-GODFREY & RILEY				RECEIVED:	02/24/83	JA: LA			
8324902	82-0340	1711101082		108		CROW #A-1	MONROE	1.3	IMC PIPELINE CO I
8324901	82-0341	1711121379		108		CROW #2	MONROE	5.4	IMC PIPELINE CO I
8324867	82-0342	1711121380		108		CROW #3	MONROE	5.2	IMC PIPELINE CO I
8324866	82-0343	1711121307		108		EUBANKS #2	MONROE	5.7	IMC PIPELINE CO I
8324885	82-0344	1711121308		108		EUBANKS #3	MONROE	7.7	IMC PIPELINE CO I
8324884	82-0345	1711121309		108		EUBANKS #4	MONROE	7.7	IMC PIPELINE CO I
8324883	82-0346	1711122112		108		EUBANKS #7	MONROE	4.5	IMC PIPELINE CO I
8324904	82-0338	1711101011		108		THURSTON #1	MONROE	0.1	IMC PIPELINE CO I
8324903	82-0339	1711121377		108		THURSTON #2	MONROE	5.0	IMC PIPELINE CO I
8324908	82-0334	1711101414		108		WALDROP #1	MONROE	3.2	IMC PIPELINE CO I
8324907	82-0335	1711101415		108		WALDROP #1-A	MONROE	4.7	IMC PIPELINE CO I
8324906	82-0336	1711122113		108		WALDROP #2	MONROE	6.1	IMC PIPELINE CO I
8324905	82-0337	1711122114		108		WALDROP #3	MONROE	4.2	IMC PIPELINE CO I
-GOLDKING PRODUCTION COMPANY				RECEIVED:	02/24/83	JA: LA			
8324976	82-0745	1710922549		103		WALLACE ELLENDER #2	NORTHEAST MONTEGUT	602.0	LOUISIANA INTRAST
-GOLDSBERRY OPERATING CO INC				RECEIVED:	02/24/83	JA: LA			
8324949	82-0871	1703121637		102-2	103	BILLINGSLEY "A" #1 HOSS RA SU 31	BETHANY-LONGSTREET	591.0	ARKANSAS LOUISIAN
-GULF OIL CORPORATION				RECEIVED:	02/24/83	JA: LA			
8324956	82-0837	1705721870		103		S L PP 192 #286	TIMBALIER BAY	84.0	TENNESSEE GAS PIP
8324842	82-0260	1707522777		103		SL 195 QQ #101 9280 SUQ	WEST BLACK BAY	321.0	SOUTHERN NATURAL
8324932	82-0627	1705721773		103		TB D12 SU STATE LEASE PP 192 #284	TIMBALIER BAY	1150.0	TENNESSEE GAS PIP
8324965	82-0801	1706520368		102-4		WALL #3 DISC 15 RD SUB	EAST BAYOU PIGEON	144.0	TEXAS GAS TRANS C
-H E SUTTON				RECEIVED:	02/24/83	JA: LA			
8324985	82-1011	1703120799		103		WEBER #2	SPIDER	419.0	LOUISIANA INTRAST
-HARVEY BROYLES				RECEIVED:	02/24/83	JA: LA			
8324874	82-0308	1701320337		103		POOLE - #1 CV RA SUB	BEAR CREEK	175.0	LOUISIANA GAS PUR
-HAWTHORNE OIL & GAS CORPORATION				RECEIVED:	02/24/83	JA: LA			
8324913	82-0136	1711321110		102-4		J P GEOFFREY #1	TIGRE LAGOON	704.0	
-JACK W GRIGSBY				RECEIVED:	02/24/83	JA: LA			
8324839	82-0274	1701702788		108		THIGPEN-HEROLD #1 - SERIAL #052549	GREENWOOD-WASKOM	17.0	UNITED GAS PIPE L
-JOHNSON OIL & GAS CORP				RECEIVED:	02/24/83	JA: LA			
8324936	82-2119	1700320204		102-4		LABOKAY #1 SERIAL #172501 7450' VUB	HARMONY CHURCH	1300.0	SOUTH TEXAS GATHE
-LUFFEY GAS CORP				RECEIVED:	02/24/83	JA: LA			
8324968	82-0787	1711123529		103	107-TF	EXXON A #3	MONROE GAS FIELD	4.5	WEST MONROE GAS G
8324966	82-0789	1711123533		103	107-TF	EXXON A #6	MONROE	8.5	WEST MONROE GAS G
8324967	82-0788	1711123531		103	107-TF	EXXON A 4	MONROE GAS	9.3	WEST MONROE GAS G
-LYONS PETROLEUM INC				RECEIVED:	02/24/83	JA: LA			
8324920	82-0178	1704520637		103		MOBIL UNION TEXAS FEE #1	FAUSSE POINTE	120.0	TEXACO INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MARSHALL EXPLORATION INC									
8324973	82-0773	1703121222		RECEIVED:	02/24/83	JA: LA			
8324870	82-0323	1703121148	108			ALSTON #1 FBG RA SU 83	LOGANSPORT	3.0	TENNESSEE GAS PIP
8324951	82-0869	1703121643	108			AVERETT #4 FBG RA SU 166	LOGANSPORT	15.0	SOUTHERN NATURAL
8324872	82-0321	1703120888	103			COLVIN CRANOR #2 LGR RA SUHN	LOGANSPORT	45.0	SOUTHERN NATURAL
8324972	82-0774	1703121256	108			COVINGTON #5 FBG RA SU 143	LOGANSPORT	5.0	TENNESSEE GAS PIP
8324909	82-0457	1703121498	108			COVINGTON #7 U HOSS RA SUAA	BELLE BOWER	16.0	TENNESSEE GAS PIP
8324871	82-0322	1703120991	103			FISHER-JOHNSON #1 PET SU 40	BETHANY-LONGSTREET	340.0	ARKANSAS-LOUISIAN
8324862	82-0529	1703121103	108			GUY #1 FBG RA SU 93	LOGANSPORT	18.0	TENNESSEE GAS PIP
8324986	82-0998	1703121491	103			HARRISON #2	BELLE BOWER	70.0	ARKANSAS LOUISIAN
8324869	82-0324	1703120843	103			HORN #6 U HOSS RA SUM	BELLE BOWER	100.0	TENNESSEE GAS PIP
8324952	82-0865	1703121302	108			JACK GAMBLE #2 FBG RA SU 81	LOGANSPORT	2.0	TENNESSEE GAS PIP
8324982	82-0996	1703120993	103			JERGINS #1	LOGANSPORT	58.4	TENNESSEE GAS PIP
8324987	82-0995	1703120970	103			RAMSEY #6 FBG RA SU 35	LOGANSPORT	139.0	TENNESSEE GAS PIP
-MCRAE EXPLORATION INC			103			RAMSEY #7 FBG RA SU 42	LOGANSPORT	63.0	TENNESSEE GAS PIP
8324914	82-0084	1706120266		RECEIVED:	02/24/83	JA: LA			
-MCRAE OIL CORP			102-2	107-TF		TURNER #1 GRAY RA SUEE	TERRYVILLE	0.0	LOUISIANA GAS PUR
8324861	82-0544	1711122737		RECEIVED:	02/24/83	JA: LA			
8324910	82-0449	1702720686	103			MONROSE #1 SMK A SU F	BULL CREEK	0.0	LOUISIANA GAS INT
-MID LOUISIANA GAS COMPANY			102-2	107-TF		WOODARD #1 GRAY RA SU A	SUGAR CREEK	0.0	LOUISIANA GAS PUR
8324860	82-2486	1711123814		RECEIVED:	02/24/83	JA: LA			
8324859	82-2487	1711123826	103			MLGC FEE GAS #1178	MONROE GAS FIELD	29.9	MID LOUISIANA GAS
8324875	82-2489	1711123830	103			MLGC FEE GAS #1185	MONROE GAS FIELD	27.7	MID LOUISIANA GAS
-MULLINS & PRICHARD			103			MLGC FEE GAS #1187	MONROE GAS FIELD	25.9	MID LOUISIANA GAS
8324832	82-2407	1705100321		RECEIVED:	02/24/83	JA: LA			
-MUNOCO COMPANY			102-4			E P BRADY 1 #5	BAYOU PEROT	165.0	UNITED GAS PIPE L
8324957	82-0834	1704920175		RECEIVED:	02/24/83	JA: LA			
-NRM PETROLEUM CORPORATION			102-3			CONTINENTAL GP INC #2 176126 HOSS S	NORTH EAST HODGE	0.0	
8324833	82-2359	1710121277		RECEIVED:	02/24/83	JA: LA			
-PATRICK PETROLEUM CORP (MI)			102-4			STATE LEASE #7969 WELL #1	POINT CHEVREUIL	1000.0	TEXACO INC
8324935	82-2426	1705721888		RECEIVED:	02/24/83	JA: LA			
-PETRO-LEWIS CORPORATION			102-4			BOWIE LUMBER CO #2 SERIAL NO 177818	LAKE BOEUF	109.5	MONTEREY PIPELINE
8324922	82-0243	1707300000		RECEIVED:	02/24/83	JA: LA			
-PHILLIPS PETROLEUM COMPANY			108			CARTER-MCHENRY #1	MONROE	17.4	SOUTHERN NATURAL
8324964	82-0818	1703121609		RECEIVED:	02/24/83	JA: LA			
8324844	82-0256	1711920292	103			LUMBER #2 HOSS SULL	LOGANSPORT	0.0	SOUTHERN NATURAL
-PLACID OIL COMPANY			103			WALKER M #2 HOSS B RA SU F	ADA	550.0	SOUTHWESTERN ELEC
8324916	82-0144	1705921858		RECEIVED:	02/24/83	JA: LA			
-RELIANCE TR-JV			102-4			BODCAW-KAUFMAN UNIT #2	NEBO HEMPHILL	100.0	
8324896	82-0463	1711123474		RECEIVED:	02/24/83	JA: LA			
8324868	82-0460	1711123466	103	107-TF		HOPKINS #13	MONROE	13.0	TEXAS GAS TRANSMI
8324898	82-0461	1711123467	103	107-TF		MANVILLE #2	MONROE	13.0	TEXAS GAS TRANSMI
8324895	82-0464	1711123475	103	107-TF		MANVILLE #3	MONROE	13.0	TEXAS GAS TRANSMI
8324897	82-0462	1711123471	103	107-TF		MCKINNIE #1	MONROE	13.0	TEXAS GAS TRANSMI
8324894	82-0465	1711123476	103	107-TF		TAYLOR #6	MONROE	13.0	TEXAS GAS TRANSMI
-RELIANCE TRUSTS			103	107-TF		W WAYNE #7	MONROE	13.0	TEXAS GAS TRANSMI
8324845	82-0699	1711123521		RECEIVED:	02/24/83	JA: LA			
8324847	82-0697	1711123519	103	107-TF		E A MASHAW #1	MONROE	13.0	TEXAS GAS TRANSMI
8324846	82-0698	1711123520	103	107-TF		MANVILLE #10	MONROE	13.0	TEXAS GAS TRANSMI
8324926	82-0665	1711123511	103	107-TF		MANVILLE #11	MONROE	13.0	TEXAS GAS TRANSMI
8324925	82-0666	1711123513	103	107-TF		MANVILLE #7	MONROE	13.0	TEXAS GAS TRANSMI
8324850	82-0670	1711123517	103	107-TF		MANVILLE #9	MONROE	13.0	TEXAS GAS TRANSMI
8324924	82-0667	1711123515	103	107-TF		SHACKLEFORD #10	MONROE	13.0	TEXAS GAS TRANSMI
8324852	82-0668	1711123505	103	107-TF		SHACKLEFORD #7	MONROE	13.0	TEXAS GAS TRANSMI
8324851	82-0669	1711123516	103	107-TF		SHACKLEFORD #8	MONROE	13.0	TEXAS GAS TRANSMI
-SEAWIDE LTD			103	107-TF		SHACKLEFORD #9	MONROE	13.0	TEXAS GAS TRANSMI
8324994	82-2312	1702321722		RECEIVED:	02/24/83	JA: LA			
-SEVARG COMPANY INC			102-4			PRAVATE MILLER #1	LITTLE PECAN LAKE	2366.0	
8324840	82-0271	1709720652		RECEIVED:	02/24/83	JA: LA			
-SHADRACK PRODUCTION CO			103			T J BROWN #3 GUILLORY SUA	SAVOY	18.0	TEXAS EASTERN TRA
8324887	82-0523	1711123419		RECEIVED:	02/24/83	JA: LA			
8324863	82-0526	1711123422	103	107-TF		BETTY BAKER #1	MONROE	13.0	WEST MONROE GAS G
8324865	82-0524	1711123420	103	107-TF		G H SMITH #1	MONROE	13.0	WEST MONROE GAS G
8324864	82-0525	1711123421	103	107-TF		M & B CHURCHES #1	MONROE	13.0	WEST MONROE GAS G
-SHELL OFFSHORE INC			103	107-TF		PILGREEN #1	MONROE	13.0	WEST MONROE GAS G
8324834	82-2628	1772520217		RECEIVED:	02/24/83	JA: LA			
-SHELL OIL CO			102-4			MP 69 SL 1353 #47	MAIN PASS BLOCK 69 FI	10.0	TENNESSEE GAS PIP
8324835	82-3115	1772120334		RECEIVED:	02/24/83	JA: LA			
8324938	82-3125	1772120336	102-4			SP BLK 42 SL 8431 #3	SOUTH PASS BLOCK 42	330.0	TENNESSEE GAS PIP
-SMITH PETROLEUM CO			102-4			SP 42 SL 2554 #16	SOUTH PASS BLOCK 42 F	0.0	TENNESSEE GAS PIP
8324961	82-0827	1705120516		RECEIVED:	02/24/83	JA: LA			
-SUN EXPLORATION & PRODUCTION CO			103			STATE LEASE 6361 #1	SATURDAY ISLAND	100.0	SOUTHERN NATURAL
8324974	82-0748	1705721699		RECEIVED:	02/24/83	JA: LA			
-SUPERIOR OIL CO			103			DIBERT STARK & BROWN #95	CHACAHOULA	5.0	LOUISIANA INTRAST
8324954	82-0853	1710922510		RECEIVED:	02/24/83	JA: LA			
-TEE OIL INC			103			R W BUCKLEY UNIT 9 #7	FOUR ISLE DOME	1000.0	TENNESSEE GAS PIP
8324831	82-2614	1705320763		RECEIVED:	02/24/83	JA: LA			
-TEMPLETON ENERGY INC			102-4			EDWARD J SMITH #1	HATHAWAY	1548.0	TEXACO PETROLEUM
8324886	82-0232	1710720416		RECEIVED:	02/24/83	JA: LA			
-TERRA RESOURCES INC			102-4			MORGAN #1	AUBREY	159.0	LOCUST RIDGE GAS
8324953	82-0855	1705721836		RECEIVED:	02/24/83	JA: LA			
-TEXACO INC			103			LAFOURCHE REALTY CO #5	BAYOU FER BLANC	913.0	SUGAR BOWL GAS CO
8324830	82-2633	1705721479		RECEIVED:	02/24/83	JA: LA			
8324955	82-0839	1710922170	102-4			BDC UB #122 VUB	BAY DE CHENE	353.0	KAISER ALUMINUM &
8324963	82-0825	1705120608	103			DGL U13 #99 VU M	DOG LAKE	19.0	TEXAS GAS TRANSMI
8324923	82-0237	1704520627	103			RIGOLETS C F CO #163 LFT NVUR	LAFITTE	5.0	KAISER ALUMINUM &
8324927	82-0660	1710121015	102-4	103		SL 334 VERMILION BAY B-75	VERMILION BAY	24.0	COLUMBIA GAS TRAN
8324928	82-0659	1710121029	103			SL 340 WEST COTE BLANCHE BAY #718	WEST COTE BLANCHE BAY	24.0	MICHIGAN WISCONSI
8324991	82-2632	1772520241	103			SL 340 WEST COTE BLANCHE BAY #721	WEST COTE BLANCHE BAY	15.0	MICHIGAN WISCONSI
8324992	82-2631	1772520275	102-4			SL 8690 MAIN PASS 75 #1	MAIN PASS	139.0	CHEVRON USA INC
-TEXOIL COMPANY			102-4	103		SL 8690 MAIN PASS 75 #4	MAIN PASS	147.0	CHEVRON USA INC
8324873	82-0320	1707522832		RECEIVED:	02/24/83	JA: LA			
-TRANS-GULF PETROLEUM CORP			102-4			SCOTT BEESLEY #1	DIAMOND	699.0	DELTA GAS INC
8324893	82-0487	1703121555		RECEIVED:	02/24/83	JA: LA			
-TXO PRODUCTION CORP			108			OLIN #2 174383	CHEMARD LAKE	36.0	TENNESSEE GAS PIP
8324958	82-0831	1706120294		RECEIVED:	02/24/83	JA: LA			
8324988	82-0960	1701320472	103			BARNETT "F" #1	HICO-KNOWLES	335.8	DELHI GAS PIPELIN
8324977	82-1024	1703121694	103			CONTINENTAL CAN "D" #1 HH SUA	LIBERTY HILL	120.1	UNITED GAS PIPE L
-UNION OIL COMPANY OF CALIF			103			J D WILLIAMS "W" #1 HOSS SUS	LOGANSPORT	839.5	DELHI GAS PIPELIN
8324921	82-0252	1700720326		RECEIVED:	02/24/83	JA: LA			
-UNION TEXAS PETROLEUM			103			S KLOTZ #2 ROB 6 RA SUB	EAST LAKE PALOURDE	1000.0	TEXAS GAS TRANSMI
8324917	82-0138	1706120281		RECEIVED:	02/24/83	JA: LA			
-WAYNE J SPEARS			102-4			LCV RA SUL BELCHER 13 #1	TERRYVILLE	547.0	SUGAR BOWL GAS CO
8324946	82-0874	1706721673		RECEIVED:	02/24/83	JA: LA			
			103			GEORGIA PACIFIC #14	BEEKMAN	450.0	TEXAS GAS TRANS C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	02/24/83	JA: LA			
8324879	82-0546	1711123552		103	107-TF	K D REPPOND #1	MONROE GAS	30.0	I M C PIPELINE CO
8324945	82-0875	1711123439		107-TF		W W NOLAN #1	MONROE	50.0	WEST MONROE GAS G
8324944	82-0876	1711123440		107-TF		W W NOLAN #2	MONROE	30.0	WEST MONROE GAS G
8324858	82-0877	1711123441		107-TF		W W NOLAN #3	MONROE	25.0	WEST MONROE GAS G
-WHELESS INDUSTRIES INC				RECEIVED:	02/24/83	JA: LA			
8324838	82-0281	1702720524		107-TF		GUY LEWIS ETAL #3 SMK CRA SUE	EAST DYKESVILLE	200.0	UNITED GAS PIPE L
WYOMING OIL & GAS CONSERVATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	02/23/83	JA: WY			
8324781	NG 192-82	4904120072		102-4		AMOCO CHEVERON GULF WI UNIT #1	WHITNEY CANYON - THAY	2000.0	NATURAL GAS PIPEL
8324817	NG 277-82	4902320383		107-TF		CHAMPLIN 149 AMOCO "L" #1 FRONTIER	BRUFF - (FRONTIER)	228.5	CITIES SERVICE GA
8324823	NG 285-82	4904120191		107-TF		CHAMPLIN 186 AMOCO "B" #1A FRONTIER	BRUFF - FRONTIER	66.4	CITIES SERVICE GA
8324818	NG 278-82	4903721924		107-TF		CHAMPLIN 257 AMOCO "B" #1 MESAVERDE	UNNAMED - (MESAVERDE)	196.1	CITIES SERVICE GA
8324816	NG 276-82	4903721961		107-TF		CHAMPLIN 263 AMOCO "H" #1 MESAVERDE	SIBERIA RIDGE - (MESA	87.0	CITIES SERVICE GA
8324800	NG 251-82	4903721873		107-TF		CHAMPLIN 271 AMOCO "C" #1 LEWIS	UNNAMED - LEWIS	22.0	
8324812	NG 272-82	4903720811		107-RT		CHAMPLIN 313 AMOCO "A" #1 LEWIS	STEWART CREEK - LEWIS	11.0	
8324820	NG 280-82	4903721415		107-RT		CHAMPLIN 320 AMOCO "B" #1 LEWIS	LOST CREEK BASIN - LE	45.0	CITIES SERVICE GA
8324815	NG 275-82	4903721980		107-TF		CHAMPLIN 336 AMOCO "G" #1 MESAVERDE	WILD ROSE - (MESAVERD	40.4	CITIES SERVICE GA
8324824	NG 286-82	4904120222		107-TF		CHAMPLIN 358 AMOCO "F" #1	BRUFF-FRONTIER	275.9	CITIES SERVICE GA
8324814	NG 274-82	4900720566		107-TF		CHAMPLIN 445 AMOCO "B" #1 MESAVERDE	WILDCAT - MESAVERDE	128.5	CITIES SERVICE GA
8324813	NG 273-82	4903721776		102-2		CHAMPLIN 534 AMOCO "B" #1 LANCE	UNNAMED - (LANCE)	57.2	CITIES SERVICE GA
8324803	NG 256-82	4903721898		107-TF		EMIGRANT TRAIL UNIT #6 (LEWIS)	UNNAMED - LEWIS	55.0	CITIES SERVICE GA
8324819	NG 279-82	4903721427		107-TF		FIVE MILE GULCH #9 - (LEWIS)	FIVE MILE GULCH - LEW	30.0	CITIES SERVICE GA
8324802	NG 253-82	4903721727		107-TF		GREAT DIVIDE UNIT #24 (LEWIS)	LOST CREEK BASIN - LE	224.0	
8324821	NG 281-82	4900922011		103		MOYE - AMOCO UNIT "A" #1	WELL DRAW - TEAPOT	27.0	
8324801	NG 252-82	4902320311		107-TF		WHISKEY BUTTES UNIT #34	WHISKEY BUTTES - FRON	72.7	CITIES SERVICE GA
-BELCO PETROLEUM CORPORATION				RECEIVED:	02/23/83	JA: WY			
8324784	NG 214-82	4903520561		102-4		C 74-22		0.0	NORTHWEST PIPELIN
8324786	NG 222-82	4903520626		102-4		C75-36	CHIMNEY BUTTES UNIT	0.0	NORTHWEST PIPELIN
8324783	NG 213-82	4903520627		102-4		C 78-26	MILLS PROSPECT	0.0	NORTHWEST PIPELIN
8324795	NG 243-82	4902320473		103		GRBU 83-7	GREEN RIVER BEND UNIT	0.0	NORTHWEST PIPELIN
8324794	NG 241-82	4902320478		103		LARSON 1-17	SOUTHEAST LABARGE	0.0	NORTHWEST PIPELIN
-CIG EXPLORATION INC				RECEIVED:	02/23/83	JA: WY			
8324825	NG 287-82	4901321194		103		MADDEN DEEP - HENDRY 2-8 (8-38-90)	MADDEN DEEP	1836.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY				RECEIVED:	02/23/83	JA: WY			
8324804	NG 258-82	4900524379		108		KEELINE "D" #1	HA CREEK	9.1	PANHANDLE EASTERN
-COASTAL OIL & GAS CORP				RECEIVED:	02/23/83	JA: WY			
8324826	NG 288-82	4901321228		103		LONG BUTTE #10 (4-38-91)	LONG BUTTE	554.0	COLORADO INTERSTA
-DAVIS OIL COMPANY				RECEIVED:	02/23/83	JA: WY			
8324782	NG 205-82	4900500000		102-2		TERRA #3	WILDCAT	0.0	PHILLIPS PETROLEU
8324797	NG 245-82	4902521344		103		TWIDALE #1	WILDCAT	190.0	KANSAS NEBRASKA N
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	02/23/83	JA: WY			
8324805	NG 262-82	4900922047		103		STATE 1-26	SCOTT	14.6	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	02/23/83	JA: WY			
8324811	NG 268-82	4900320572		102-2		FRITZ STATE FEDERAL 1-16-2B	UNDESIGNATED	320.0	
8324810	NG 267-82	4903721996		103		MAY STATE 2-36	DESERT SPRINGS	87.0	COLORADO INTERSTA
-HPC INC				RECEIVED:	02/23/83	JA: WY			
8324793	NG 240-82	4900922005		103		WOODS HEDGEHOG #1-36	WILDCAT	19.0	PHILLIPS PETROLEU
8324792	NG 239-82	4900922005		102-2		WOODS HEDGEHOG #1-36	WILDCAT	0.0	PHILLIPS PETROLEU
-MONSANTO COMPANY				RECEIVED:	02/23/83	JA: WY			
8324788	NG 235-82	4901321194		107-DP		HENDRY #2-8	MADDEN DEEP UNIT	3673.0	COLORADO INTERSTA
8324789	NG 236-82	4901321228		107-DP		LONG BUTTE UNIT #10	LONG BUTTE UNIT	1110.0	
-MONSANTO OIL CO				RECEIVED:	02/23/83	JA: WY			
8324790	NG 237-82	4901320895		107-DP		BURL #1-7	MADDEN DEEP UNIT	2280.0	COLORADO INTERSTA
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	02/23/83	JA: WY			
8324799	NG 247-82	4902320337		107-TF		NGC 22-36 STATE	FONTENELLE II	190.0	PACIFIC GAS TRANS
8324798	NG 246-82	4902320403		107-TF		NGC 31-5 BUCK	FONTENELLE II	96.0	PACIFIC GAS TRANS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/23/83	JA: WY			
8324809	NG 266-82	4900526502		102-2		FORD A #1	SCHOOL CREEK	31.0	PANHANDLE EASTERN
-SOHIO PETROLEUM CO				RECEIVED:	02/23/83	JA: WY			
8324780	NG 178-82	4901300000		107-TF		SOUTH SAND DRAW #4	SOUTH SAND DRAW	185.0	NORTHERN GAS CO
-TENNECO OIL COMPANY				RECEIVED:	02/23/83	JA: WY			
8324808	NG 265-82	4900922077		102-2		BROWN STATE 1-26	SCOTT	14.0	
-TEXACO INC				RECEIVED:	02/23/83	JA: WY			
8324807	NG 264-82	4903722008		107-DP		TABLE ROCK UNIT #37	TABLE ROCK	0.0	COLORADO INTERSTA
-THE ANSCHUTZ CORPORATION				RECEIVED:	02/23/83	JA: WY			
8324791	NG 238-82	4902921110		102-4		DUNCAN 2537 #12-30A	WILDCAT	300.0	CODY GAS CO
-WAINOCO OIL & GAS CO				RECEIVED:	02/23/83	JA: WY			
8324822	NG 284-82	4904120442		103		WAINOCO AMOCO CHAMPLIN 370 B-1	SHURTLEFF CREEK - ANK	175.0	NORTHWEST PIPELIN
8324806	NG 263-82	4904120442		102-3		WAINOCO AMOCO CHAMPLIN 370 B-1		175.0	NORTHWEST PIPELIN
-WESTERN PRODUCTION CO				RECEIVED:	02/23/83	JA: WY			
8324828	NG 303-82	4904521259		102-4		FINN #12	FINN	2.6	M G P C INC
8324829	NG 304-82	4904521390		102-4		FINN #17	FINN	3.1	M G P C INC
8324827	NG 302-82	4904521236		102-4		FINN 11	FINN	2.3	M G P C INC
-WEXPRO COMPANY				RECEIVED:	02/23/83	JA: WY			
8324796	NG 244-82	4903722047		103		CHURCH BUTTES UNIT #35	CHURCH BUTTES	246.4	MOUNTAIN FUEL SUP
-WOODS PETROLEUM CORPORATION				RECEIVED:	02/23/83	JA: WY			
8324787	NG 234-82	4900526047		102-2		MOORE MINERALS TRUST #17-1	WILDCAT / N POWELL AR	19.0	PHILLIPS PETROLEU
8324785	NG 219-82	4900526468		102-4		PINE TREE UNIT #20-46	PINE TREE	1.0	WESTERN GAS PROCE

[FR Doc. 83-7874 Filed 3-25-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 858]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 23, 1983.

The following 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).

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.**

Source data from the Form 121 for this and all previous notices 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.

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–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.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS VOLUME 858

ISSUED MARCH 23, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-ANGELA P HOPKINS				RECEIVED:	02/28/83	JA: NY			
8325196	4883	3101317857		103		HOPKINS DAVIS WELL	LAKESHORE	0.0	NATIONAL FUEL GAS
8325232	4884	3101317857		107-TF		HOPKINS DAVIS WELL #5	LAKESHORE	0.0	NATIONAL FUEL GAS
8325197	4881	3101317909		103		HOPKINS HALL WELL	LAKESHORE	0.0	NATIONAL FUEL GAS
8325204	4796	3101315517		103		HOPKINS YERICO WELL #4091	LAKESHORE	0.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	02/28/83	JA: NY			
8325233	4886	3101317963		107-TF		CHARRINGTON CREEK INC UNIT #5	WILDCAT	12.0	COLUMBIA GAS TRAN
-CHAUTAUQUA NATURAL GAS CO INC				RECEIVED:	02/28/83	JA: NY			
8325227	4842	3101316812		107-TF		RICHTER #8	VILLENOVA	20.0	TENNESSEE GAS PIP
8325212	4842	3101316812		103		RICHTER #8	VILLENOVA	20.0	TENNESSEE GAS PIP
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	02/28/83	JA: NY			
8325230	1766	3101314600		108		CALHOUN I #3139	LAKE SHORE	4.0	NATIONAL FUEL GAS
-K G GAS CO				RECEIVED:	02/28/83	JA: NY			
8325201	3538	3102960300		108		MARGARET MOORE #201	BUFFALO CREEK PORTERV	6.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	02/28/83	JA: NY			
8325209	4831	3100916929		103		A & F KOTA #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325215	4847	3100917764		103		ACKLEY #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325219	4860	3100916424		107-TF		BAIRD #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325203	4859	3100916424		103		BAIRD #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325221	4854	3100916861		107-TF		BAIRD #5	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325218	4853	3100916861		103		BAIRD #5	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325220	4858	3100917834		107-TF		BEZELJAK #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325202	4857	3100917834		103		BEZELJAK #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325225	4846	3100917836		107-TF		EATON #3	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325214	4845	3100917836		103		EATON #3	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325198	4879	3100917825		103		EVANS #6	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325188	4880	3100917825		107-TF		EVANS #6	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325224	4848	3100917764		107-TF		H D ACKLEY #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325199	4877	3100917705		103		HOWARD EATON #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325187	4878	3100917705		107-TF		HOWARD EATON #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325216	4849	3100917615		103		JOHN DEDOMIZIO #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325223	4850	3100917615		107-TF		JOHN DIDOMIZIO #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325231	4832	3100916929		107-TF		KOTA #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325222	4852	3100917672		107-TF		REED #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325217	4851	3100917672		103		REED #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325229	4834	3100917906		107-TF		RICH #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325210	4833	3100917906		103		RICH #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325226	4844	3100917905		107-TF		RICH #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325213	4843	3100917905		103		RICH #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325234	4876	3100917907		107-TF		S WILDER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325200	4875	3100917907		103		S WILDER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325208	4829	3100917824		103		WELLS #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8325195	4830	3100917824		107-TF		WELLS #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-NYS NATURAL GAS COMPANY				RECEIVED:	02/28/83	JA: NY			
8325228	4840	3101317926		107-TF		NORTHROP #4	LAKESHORE	20.0	NATIONAL FUEL GAS
8325211	4839	3101317926		103		NORTHROP #4	LAKESHORE	20.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PARAGON RESOURCES INC				RECEIVED:	02/28/83	JA: NY			
8325190	1220	3101315505		103		GEORGE ENDRESS UNIT NO 604	LAKESHORE	38.0	COLUMBIA GAS TRAN
-RESOURCE EXPLORATION INC				RECEIVED:	02/28/83	JA: NY			
8325206	4824	3101316461		103		CARLSON-TICKNOR #1		18.0	COLUMBIA GAS TRAN
8325193	4823	3101316461		107-TF		CARLSON-TICKNOR #1		18.0	COLUMBIA GAS TRAN
8325207	4826	3101317671		103		CARR #2		18.0	COLUMBIA GAS TRAN
8325194	4825	3101317671		107-TF		CARR #2		18.0	COLUMBIA GAS TRAN
8325205	4821	3101317661		103		CORNELL-WISE #1		18.0	COLUMBIA GAS TRAN
8325192	4822	3101317661		107-TF		CORNELL-WISE #1		18.0	COLUMBIA GAS TRAN
-SHAWNEE EXPLORATION INC				RECEIVED:	02/28/83	JA: NY			
8325189	4818	3102917977		103		GIER UNIT #1	BRANT	15.0	SCG GAS QUEST INC
-TEMPLETON ENERGY INC				RECEIVED:	02/28/83	JA: NY			
8325191	4811	3101315505		107-TF		G ENDRESS UNIT #604	LAKESHORE	38.0	COLUMBIA GAS TRAN
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-A V BERRY				RECEIVED:	02/22/83	JA: OK			
8325082	20203	3505120808		108		MOON #3		0.5	OKLAHOMA NATURAL
8325083	20204	3505120846		108		MOON #4		0.5	OKLAHOMA NATURAL
8325084	20205	3505120977		108		MOON #6		0.5	OKLAHOMA NATURAL
8325085	20206	3505120978		108		MOON #7		0.5	OKLAHOMA NATURAL
-ANADARKO PRODUCTION COMPANY				RECEIVED:	02/22/83	JA: OK			
8325109	20022	3500321011		103		BUCHANON A #2-33	LAMBERT SE	142.0	PIONEER GAS PRODU
8325043	20023	3500320185		103		MORRIS A-2	LAMBERT S E	143.0	PIONEER GAS PRODU
-ANCOR PETROLEUM INC				RECEIVED:	02/22/83	JA: OK			
8325027	20089	3507323438		103		GILL #1-3	SOONER TREND	380.0	CITIES SERVICE GA
8325029	20087	3507323176		103		LAYTON #1-35	SOONER TREND	24.0	CITIES SERVICE GA
8325028	20088	3508121578		103		NOSSAMAN #1-33	WILDCAT	164.0	SUN GAS CO
-ANDOVER OIL COMPANY				RECEIVED:	02/22/83	JA: OK			
8325116	19978	3512120888		103		NOBLIN #36-1		45.0	SOUTHEAST TRANSMI
-APACHE CORPORATION				RECEIVED:	02/25/83	JA: OK			
8325143	19152	3503920678		102-2		K C CATTLE #1-30		255.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/22/83	JA: OK			
8325067	20018	3508520485		103		A L TUCKER UNIT #2	WEST ENVILLE	36.5	CIMARRON TRANSMIS
8325032	20067	3504721907		103		JOEL J BROWN #1	SOUTH DOUGLAS	36.5	ARCO OIL & GAS CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/25/83	JA: OK			
8325144	19152	3510321666		102-4		NEIL HAM #1	N W STILLWATER AIRPOR	36.5	ARCO OIL & GAS CO
-ATKINSON J V				RECEIVED:	02/22/83	JA: OK			
8325090	18724	3510500000		102-2		C R DICKINSON #12		25.0	REH INDUSTRIES
8325089	18723	3510500000		102-2		C R DICKINSON #15		25.0	REH INDUSTRIES
-ATLAS OIL INC				RECEIVED:	02/22/83	JA: OK			
8325119	18892	3508322027		102-2		WOLFE 1-5	WEST GUTHRIE	73.0	EASON OIL CO
-BEARD OIL COMPANY				RECEIVED:	02/25/83	JA: OK			
8325155	20273	3507323642		103		HOBBS "B" #1	SOONER TREND-SOUTHWES	131.0	CITIES SERVICE GA
8325175	18900	3510920485		102-4		HOPCUS #1	WILDCAT	360.0	CONTINENTAL GAS P
8325142	19093	3510920535		102-4		L D S "A" #1	NORTH CHOCTAW	219.0	CONTINENTAL GAS P
8325176	18932	3510920558		102-4		SCHERR #1	NORTH CHOCTAW	689.0	CONTINENTAL GAS P
-BILLINGS & PARRISH PRODUCTION CO				RECEIVED:	02/22/83	JA: OK			
8325035	19045	3503370727		102-2		PETTY #1	HULEN	200.0	LONE STAR GAS CO
8325049	19044	3503320471		102-2		URICE #2	HULER	200.0	LONE STAR GAS CO
-BLAIK OIL COMPANY				RECEIVED:	02/22/83	JA: OK			
8325087	08681	3500300000		108-ER		DAISY HAGUE #1	SOONER TREND	7.0	AMINOIL U S A INC
-BLUEBELL OIL & GAS INC				RECEIVED:	02/25/83	JA: OK			
8325168	20093	3507323038		103		KOCHENOWER STATE #1-36	SOONER TREND	37.0	CITIES SERVICE GA
8325167	20090	3507323048		103		PARHAM "A" #1-36	SOONER TREND	5.8	CITIES SERVICE GA
-BOGERT OIL CO				RECEIVED:	02/22/83	JA: OK			
8325093	20108	3509322562		103		RUSCH #1-8	SOONER TREND	236.0	PHILLIPS PETROLEU
-BOGERT OIL CO				RECEIVED:	02/25/83	JA: OK			
8325138	20266	3507323630		103		LAWRENCE #1-25	SOONER TREND	37.0	EASON OIL CO
-BOSWELL ENERGY CORP				RECEIVED:	02/22/83	JA: OK			
8325123	19962	3504921820		103		TUCKER #1-35	SHO-VEL-TUM	0.0	MOBIL OIL CO
-CAYMAN EXPLORATION CORP				RECEIVED:	02/22/83	JA: OK			
8325127	18899	3507323467		103		WELLS #8-2	SOONER TREND	104.0	CITIES SERVICE GA
-CHAMPLIN EXPLORATION INC				RECEIVED:	02/22/83	JA: OK			
8325052	19806	3508121590		103		SPROH ESTATE #1-23	NEW FIELD	120.0	SUN GAS CO
-CHEYENNE EXPLORATION INC				RECEIVED:	02/22/83	JA: OK			
8325121	18789	3504722882		102-4		MARQUIS #1		0.0	CITIES SERVICE GA
8325120	18790	3504723003		102-4		SIMMERING #1-3	WILDCAT	0.0	CITIES SERVICE GA
-CIMARRON MANAGEMENT CORP				RECEIVED:	02/22/83	JA: OK			
8325070	20043	3511721642		103		BORGHARDT #2	HALLETT	5.5	EMPIRE PIPELINE C
-CITIES SERVICE COMPANY				RECEIVED:	02/25/83	JA: OK			
8325158	21424	3500700000		108		BASS C #1	MOCANE	18.3	COLORADO INTERSTA
-CLARK RESOURCES INC				RECEIVED:	02/22/83	JA: OK			
8325025	20102	3509322560		103		KARBER 14-1	SOONER TREND	85.0	PHILLIPS PETROLEU
-COMMERCIAL ENERGY CORP				RECEIVED:	02/22/83	JA: OK			
8325135	19932	3504722976		103		EDWARDS 1-25	SOONER TREND	0.0	EXXON CO U S A
-CORE PETROLEUM LTD				RECEIVED:	02/22/83	JA: OK			
8325112	23194	3514920328		107-DP		BOSE #1-9		0.0	PRODUCER'S GAS CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/22/83	JA: OK			
8325108	23299	3501521343		107-DP		LONA #1	CHICKASHA NW	0.0	UNITED GAS PIPELI
8325086	23273	3501521456		107-DP		OSBORNE #1	LAVERTY EAST	285.0	UNITED GAS PIPELI
8325111	23211	3501521289		107-DP		WUNDERLICH #1	GRACEMONT E	243.0	UNITED GAS PIPELI
-DEMINEX US OIL COMPANY				RECEIVED:	02/22/83	JA: OK			
8325103	20077	3507300000		108		JOE FORMAN #2	N W REEDING	13.0	CONOCO INC
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	02/22/83	JA: OK			
8325076	20034	3515121277		103		HODGDEN #2-1	OAKDALE	100.0	AMINOIL USA INC
8325073	20032	3515121295		103		LOOMIS #1-25	OAKDALE	300.0	MAGIC CIRCLE ENER
8325075	20035	3507323506		103		SEDLAK #1-2	SOONER TREND	75.0	EASON OIL CO
-EASTOK PETROLEUM CORP				RECEIVED:	02/25/83	JA: OK			
8325140	20270	3509120519		103		EASTOK PETROLEUM #3	COALTON-TIGER MOUNTAI	73.0	CARR GAS CO
-ECC OIL CO				RECEIVED:	02/25/83	JA: OK			
8325164	19108	3510523919		102-2		TANGIER #1 C N/2 N/2 23-28N-15E	LENAPAH	7.0	OKAN GAS CO
8325165	19109	3510523920		102-2		TANGIER #2 C W/2 SE/4 23-28N-15E	LENAPAH	0.0	OKAN GAS CO
8325159	22249	3514722287		108		THOMAS #1 SW/4 S31-T25N-R14E	OGLESBY GAS FIELD	6.7	OKAN GAS CO
-EL DORADO DRILLING INC				RECEIVED:	02/22/83	JA: OK			
8325020	20141	3508321795		103		BARNES #34-81-1		27.0	SUN GAS CO
-EL DORADO DRILLING INC				RECEIVED:	02/25/83	JA: OK			
8325179	20143	3508321844		103		MASON #80-2		35.4	SUN GAS CO
-ENERGY RESERVES GROUP INC				RECEIVED:	02/22/83	JA: OK			
8325034	19073	3509120209		102-2		TOLIVER #1-10	HICHITA	0.0	
-ENERGY SERVICES INC				RECEIVED:	02/22/83	JA: OK			
8325069	18904	3504500000		102-4		BRADLEY #27-1A	NW HARMON	90.0	PRODUCER'S GAS CO
8325118	18905	3504321408		102-4		RED MAN #36-2	WEST CANTON &1	36.0	DELHI GAS PIPELIN
-FRAN-BART INC				RECEIVED:	02/22/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8325079	19999	3512321201		103		DAVIS #1	ALLEN DISTRICT	180.0	ARKANSAS LOUISIAN
-FUNK EXPLORATION INC				RECEIVED:		02/22/83 JA: OK			
8325130	19238	3513921660		102-4		EUNICE #1	EAST HOOKER	380.0	PANHANDLE EASTERN
-GARY MATTHEWS OIL & GAS				RECEIVED:		02/22/83 JA: OK			
8325077	19995	3512322000		103		DAVIS D	ALLEN DISTRICT	50.0	ARKANSAS LOUISIAN
8325078	19998	3512322020		103		HENSEN #1	ALLEN DISTRICT	70.0	ARKANSAS LOUISIAN
-GIM INC				RECEIVED:		02/22/83 JA: OK			
8325062	17456	3507300000		103		DEANN #1	SOONER TREND	0.0	DALCO PETROLEUM U
-GOMACO INC				RECEIVED:		02/22/83 JA: OK			
8325114	18734	3511921417		102-4		TREU #2-26	UNNAMED	12.0	COLORADO GAS COMP
-GRAHAM OIL & GAS LTD				RECEIVED:		02/22/83 JA: OK			
8325055	19316	3507321235		102-4		BARNES #1		668.9	PANHANDLE EASTERN
-GULF OIL CORPORATION				RECEIVED:		02/25/83 JA: OK			
8325141	18056	3507323301		103		POPE-UTAH #3-10	LACY SW	547.0	ARKANSAS LOUISIAN
8325177	19308	3514920170		102-4		TERRY FARRIS #1-17	WILDCAT	850.0	
-HAGER OIL CO				RECEIVED:		02/22/83 JA: OK			
8325045	19890	3513321935		103		H & B STREATER #1 13321935		144.0	ARCO OIL & GAS CO
-HARPER OIL COMPANY				RECEIVED:		02/22/83 JA: OK			
8325051	18986	3504321078		102-4		CARPENTER #1	WILDCAT	72.0	DELHI GAS PIPELIN
8325105	20154	3507323666		103		ERNEST #2	SOONER TREND	91.0	PHILLIPS PETROLEU
-HAWPER OIL COMPANY				RECEIVED:		02/25/83 JA: OK			
8325181	20153	3507300000		108		ESTHER #1		7.0	PHILLIPS PETROLEU
-HAWKINS OIL & GAS INC				RECEIVED:		02/22/83 JA: OK			
8325133	19314	3500722328		102-2		SWAN #1-8	LORENA EXTENSION	91.0	
-HELMERICH & PAYNE INC				RECEIVED:		02/25/83 JA: OK			
8325163	17626	3513722871		103		RICHEY #1-A	SHOLEM-ALECHEM	47.0	MOBIL OIL CORP
-HOLD OIL CORP				RECEIVED:		02/25/83 JA: OK			
8325166	19807	3506321297		103		HOLD OIL CORP BILL BOYCE #1	SHADY GROVE	180.0	HILL TOP INVESTME
-HPC INC				RECEIVED:		02/25/83 JA: OK			
8325172	20255	3503920715		103		MANSON #1		60.0	TRANSOK PIPELINE
-JAY PETROLEUM INC				RECEIVED:		02/22/83 JA: OK			
8325125	19969	3505120734		103		DACUS #1	BRADLEY	5.5	TRANSOK PIPE LINE
8325124	19968	3505120622		103		STERR #3	BRADLEY	32.4	TRANSOK PIPE LINE
-JORDAN OIL & GAS COMPANY				RECEIVED:		02/22/83 JA: OK			
8325080	19128	3510721248		102-4	103	PALMER 2-11	HICKORY RIDGE	584.0	TRANSOK PIPELINE
8325039	21382	3504521040		103		STUBBS 1-12	SOUTH GAGE	55.0	TRANSWESTERN PIPE
-L P ENERGY				RECEIVED:		02/22/83 JA: OK			
8325128	19147	3507323398		103		STOTTS #1	SOONER TREND	155.0	PHILLIPS PETROLEU
-L W CARY				RECEIVED:		02/25/83 JA: OK			
8325147	19907	3501722040		103		CARY #3-3	OKLAHOMA CITY	0.0	MOBIL OIL CORP
-LEAR PETROLEUM CORPORATION				RECEIVED:		02/22/83 JA: OK			
8325102		3513520051		108		GUNTER #1	KINTA	0.0	ARKANSAS LOUISIAN
8325101	19763	3507920241		108		LEAR LEE "A" #1	CEDARS	0.0	ARKANSAS LOUISIAN
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:		02/25/83 JA: OK			
8325160	23135	3501521395		107-DP		HEGER #1-20	SW LIBBIE	1.1	EL PASO NATURAL G
-LOCATORS OIL & GAS INC				RECEIVED:		02/22/83 JA: OK			
8325023	20122	3508320663		103		BLEVINS #1	W LAURIE	2.2	EASON OIL CO
-LONG ROYALTY CO				RECEIVED:		02/22/83 JA: OK			
8325048	19599	3501700000		103		JACOBS #2	NORTH MUSTANG	0.0	MOBIL OIL CORP
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:		02/22/83 JA: OK			
8325063	17464	3503723820		103		CASEY #7	CUSHING	985.0	CITIES SERVICE GA
-LRF CORP				RECEIVED:		02/22/83 JA: OK			
8325104	20152	3506331618		103		TRIMM #2	HILLTOP	182.0	ARKANSAS LOUISIAN
-M S KLOTZMAN EXPLORATION				RECEIVED:		02/22/83 JA: OK			
8325106	20211	3511120658		108		HENRY #6	SCHULTER	3.0	SCHULTER GATHERIN
8325107	20212	3511100000		108		PDE #1	SCHULTER	4.0	SCHULTER GATHERIN
-MABEE PETROLEUM CORP				RECEIVED:		02/25/83 JA: OK			
8325184	20243	3504921955		103		GEHRKE #2	WILDCAT	31.0	BUCKEYE NATURAL G
8325185	20244	3504722876		103		GEHRKE NO 1	WILDCAT	31.0	BUCKEYE NATURAL G
-MACK OIL CO				RECEIVED:		02/22/83 JA: OK			
8325068	20015	3515321353		103		VANDORN #1	N BOILING SPRINGS	140.0	DELHI GAS PIPELIN
8325110	20040	3500320991		103		WOODARD #1	S E GOLTRY	120.0	UNION TEXAS PETRO
8325042	20041	3500321001		103		WOODARD #3	RINGWOOD	120.0	UNION TEXAS PETRO
-MASSEY & MASSEY				RECEIVED:		02/25/83 JA: OK			
8325182	20155	3504722135		108		NELSON #1 OTC #047-60194	SOUTH DRUMMOND	10.0	PHILLIPS PETROLEU
8325183	20157	3504722143		108		SCOVELL #1 OTC #047-60201	SOUTH DRUMMOND	0.6	PHILLIPS PETROLEU
-MCMORAN-FREEPORT OIL CO				RECEIVED:		02/25/83 JA: OK			
8325162	23328	3514900000		107-DP		GEIS #1-36	WILDCAT	365.0	
-MIDCO DRILLING INC				RECEIVED:		02/22/83 JA: OK			
8325047	19716	3500722294		103		WINCHESTER #1	MOCANE-LAVERNE	18.0	EL PASO NATURAL G
-MOBIL OIL CORP				RECEIVED:		02/25/83 JA: OK			
8325174	17817	3504900000		108-SA		C LAMBERT #3	GOLDEN TREND	18.9	WARREN PETROLEUM
-NATURAL GAS ANADARKO INC				RECEIVED:		02/22/83 JA: OK			
8325059	17292	3500722184		103		NAYLOR A 1-32		126.0	PHILLIPS PETROLEU
-O L SCOTT JR OIL PROPERTIES				RECEIVED:		02/22/83 JA: OK			
8325074	20025	3504722949		103		BRAUNER #1-A	S W DOUGLAS FIELD	0.0	ARCO OIL & GAS CO
-OFS-TULSA CORP				RECEIVED:		02/22/83 JA: OK			
8325134	19523	3507323421		103		DONNA #1-30	SOONER TREND	126.0	CITIES SERVICE GA
-OIL LIFT INC				RECEIVED:		02/22/83 JA: OK			
8325040	21174	3510525588		108		ALEXANDER #1-23 (API #10525588)	SOUTH COFFEYVILLE	12.5	PELICAN PIPELINE
8325041	21173	3510523273		108		OESTMANN #1 (API 10523273)	SOUTH COFFEYVILLE	4.0	PELICAN PIPELINE
8325072	21172	3510525430		108		OESTMANN #22 (API#1052430)	SOUTH COFFEYVILLE	12.8	PELICAN PIPELINE
8325058	21322	3510525717		102-2		SMITH #1-27	SOUTH COFFEYVILLE	5.5	PELICAN PIPELINE
-OILTON PETROLEUM INC				RECEIVED:		02/22/83 JA: OK			
8325030	20081	3511720675		103		SHENOLD #B1	UNKNOWN	36.5	H J D CATTLE CO
-OKLAHOMA CONVEYANCE CORP				RECEIVED:		02/25/83 JA: OK			
8325171	20253	3507121562		108		C G HONICK #1-3	S PECKHAM	2.0	CITIES SERVICE GA
-OSBORN HEIRS CO				RECEIVED:		02/22/83 JA: OK			
8325098	19984	3501121663		103		WEBER #2	N W OMEGA	150.0	MUSTANG FUEL CORP
8325099	19985	3501121696		103		WEBER #3	NW OMEGA	150.0	MUSTANG FUEL CORP
-PARADOX PETROLEUM CO				RECEIVED:		02/22/83 JA: OK			
8325100	19997	3513921313		103		ROWAN #1-30	HUGOTON COUNCIL GROVE	21.6	INTER NORTH INC
-PAUL WALKER				RECEIVED:		02/22/83 JA: OK			
8325024	20128	3503320680		103		HOOKER #1	HULIN	365.0	ARKANSAS-LOUISIAN
-PETRO-LEWIS CORPORATION				RECEIVED:		02/22/83 JA: OK			
8325113	18356	3507323523		103		LESLY #17-2	SOONER TREND	0.0	CITIES SERVICE GA
8325057	19577	3509320811		108		OSCAR 27 #1	SOONER TREND	0.0	PARTNERSHIP PROPE
-PETROLIA DRILLING CORP				RECEIVED:		02/22/83 JA: OK			
8325122	19958	3509322518		103		TEFFT #2	S E AMES	375.0	CITIES SERVICE GA
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		02/22/83 JA: OK			
8325081	19573	3501521404		103		EAST BINGER UNIT #19-2	EAST BINGER	45.0	OKLAHOMA NATURAL
8325054	19084	3500700000		108		SPEAR #1	LAVERNE-MORROW	0.0	PANHANDLE EASTERN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		02/25/83 JA: OK			
8325180	20144	3501721681		108		BILLER A #1	WEST OKARCHE	12.6	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PYRO ENERGY CORP				RECEIVED:	02/22/83	JA: OK			
8325050	18987	3509322471		103		F J EDWARDS '32' #2	W CHEYENNE VALLEY (MI	0.0	TENNESSEE GAS PIP
-RACK OIL INC				RECEIVED:	02/22/83	JA: OK			
8325060	17418	3503722883		103		MOFFER #1	CUSHING	15.0	ARCO OIL & GAS CO
8325061	17419	3503723059		103		MOFFER #2	CUSHING	14.3	ARCO OIL & GAS CO
-REYNOLDS EXPLORATION CO				RECEIVED:	02/22/83	JA: OK			
8325026	20098	3507323272		103		KRAMER #2	SOONER TREND	0.0	CITIES SERVICE CO
-REYNOLDS EXPLORATION CO				RECEIVED:	02/25/83	JA: OK			
8325170	20097	3507322968		103		HILL #1	SOONER TREND	0.0	CITIES SERVICE CO
8325169	20096	3507322984		103		ROTHER #1	SOONER TREND	0.0	CITIES SERVICE CO
-RICKS EXPLORATION CO				RECEIVED:	02/22/83	JA: OK			
8325095	23223	3501521014		107-DP		GERTIE HINTON #1	N CEMENT	318.0	SOUTHERN NATURAL
-ROBERT GORDON OIL CO				RECEIVED:	02/22/83	JA: OK			
8325065	20021	3508121589		103		BOND #13-1 081-76878	WILDCAT	0.0	KERR MCGEE CORP
-ROBINSON BROS DRILLING CO INC				RECEIVED:	02/22/83	JA: OK			
8325033	19121	3501521210		102-2		ROSSER #23-1	NORTH EAKLY	328.0	DELHI GAS PIPELIN
-S K TUTHILL & B J BARBEE				RECEIVED:	02/22/83	JA: OK			
8325096	18985	3515521356		102-2		HUGHES 1-32	SOUTH FREEDOM	250.0	PANHANDLE EASTERN
-SABINE CORP				RECEIVED:	02/25/83	JA: OK			
8325178	20131	3512900000		108		WOOLEY #1-13		0.0	PANHANDLE EASTERN
8325173	02895	3512900000		108-ER		WOOLEY 2-13		0.0	PANHANDLE EASTERN
-SAMSON RESOURCES COMPANY				RECEIVED:	02/25/83	JA: OK			
8325145	19179	3507920463		102-4 103		FREEMAN #1	SOUTH POCOLA	657.0	ARKANSAS LOUISIAN
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	02/22/83	JA: OK			
8325056	19466	3500920400		102-2		KNIGHT #1-19	W ELK CITY	700.0	
-SCHICK ENERGY CORP				RECEIVED:	02/22/83	JA: OK			
8325044	20019	3509300000		103		SMITH 10-1	RINGWOOD	500.0	PIONEER GAS PRODU
8325066	20020	3507323092		103		WEHRENBERG 26-1		20.0	EXXON CO USA
-SEARCH DRILLING CO				RECEIVED:	02/22/83	JA: OK			
8325115	19977	3507323400		103		KRAMER #2-18	SOONER TREND	16.0	CITIES SERVICE GA
-SENECA OIL COMPANY				RECEIVED:	02/22/83	JA: OK			
8325053	18911	3509322513		102-2		FRAZIER #1-23		309.2	PANHANDLE EASTERN
8325126	18909	3501121710		103		ORVILLE #1-2		273.8	PANHANDLE EASTERN
8325064	18807	3501722232		102-4 103		ROUTH #1-16		84.0	PHILLIPS PETROLEU
-STAR RESOURCES INC				RECEIVED:	02/22/83	JA: OK			
8325071	20047	3506321610		103		RAINBOLT 2-11	E WETUMKA	90.0	PUBLIC SERVICE CO
-STARBRIGHT OIL & GAS CO INC				RECEIVED:	02/22/83	JA: OK			
8325031	20080	3510121533		103		JENKINS #1	HASKELL	266.1	PHILLIPS PETROLEU
-STONE RIVER II				RECEIVED:	02/22/83	JA: OK			
8325021	20139	3504722977		103		MARCELLA #1	SOONER TREND	182.5	ONG WESTERN INC
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	02/22/83	JA: OK			
8325129	19225	3505921043		103		J E BOUSE #3	MOCANE-LAVERNE GAS AR	184.0	COLORADO INTERSTA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	02/25/83	JA: OK			
8325137	20264	3505921052		103		BARBY UNIT #3	MOCANE LAVERNE	55.0	COLORADO INTERSTA
8325153	20222	3500722192		103		BOYD UNIT TRACT 10 #4	GRAND VALLEY E	0.4	PHILLIPS PETROLEU
8325154	20223	3505320775		103		HAWLEY WEST UNIT TRACT 22 #2	HAWLEY	22.0	CITIES SERVICE GA
8325151	20220	3503723739		103		STROUD PRUE SAND UT #13-8	STROUD	37.0	KERR MCGEE CORP
8325150	20219	3503723659		103		STROUD PRUE SAND UT #14-4	STROUD	37.0	KERR MCGEE CORP
8325152	20221	3507122580		103		WEST GARRETT REDFORK UT TR 10 #7	GARRETT NORTHWEST	0.4	CITIES SERVICE CO
-SUNRISE EXPLORATION INC				RECEIVED:	02/25/83	JA: OK			
8325157	20254	3508720699		103		WHITEHEAD #1	FLINT CREEK	22.0	ARKANSAS LOUISIAN
-TENNECO OIL COMPANY				RECEIVED:	02/22/83	JA: OK			
8325022	20129	3507720251		103		JANKOWSKY #1-18	KINTA	280.0	TENNESSEE GAS PIP
8325097	19981	3510321704		103		SOUTH LONE ELM CLEVELAND SAND UNIT*	SOUTH LONE ELM	1.0	AMINOIL U S A INC
8325117	19980	3510321707		103		SOUTH LONE ELM CLEVELAND SAND UNIT*	SOUTH LONE ELM	2.0	AMINOIL U S A INC
-TEXACO INC				RECEIVED:	02/22/83	JA: OK			
8325091	20061	3504521065		103		H A JONTRA UNIT #2	MILDER POOL	55.0	INTER NORTH INC
-THE GHK COMPANY				RECEIVED:	02/22/83	JA: OK			
8325038	23287	3501521151		107-DP		EDWARDS-BARRETT 1-10		0.0	
8325037	23288	3505121218		107-DP		HEATH #1-7	WILDCAT	284.7	EL PASO NATURAL G
8325036	23289	3503100000		107-DP		MCINTOSH #1-11	EAST FLETCHER	547.5	TRANSWESTERN GAS
-THE GHK COMPANY				RECEIVED:	02/25/83	JA: OK			
8325161	23324	3500920505		107-DP		SIMMONS #1-31		449.0	EL PASO NATURAL G
-THE WIL-MC OIL CORP				RECEIVED:	02/25/83	JA: OK			
8325156	20249	3510321595		103		THELMA #1	POLO	180.0	ARCO OIL & GAS CO
-TOKLAN OIL CORP				RECEIVED:	02/25/83	JA: OK			
8325148	20057	3501121732		103		KARNS #1	WATONGA	1300.0	OKLAHOMA GAS & EL
-TOWNER PETROLEUM CO				RECEIVED:	02/22/83	JA: OK			
8325131	19243	3501722289		102-2		AA & L #19-1		0.0	
-TOWNER PETROLEUM CO				RECEIVED:	02/25/83	JA: OK			
8325136	20259	3507323509		103		ANGEVINE #20-1		0.0	PHILLIPS PETROLEU
-TRIPLE F OIL CO				RECEIVED:	02/22/83	JA: OK			
8325088	16927	3511921609		103		MYRTLE LYNCH #1 119-74307		694.0	ENTERPRISE DEVELO
-TXO PRODUCTION CORP				RECEIVED:	02/22/83	JA: OK			
8325132	19309	3515121289		102-2		MORRIS HULL #1	WAYNOKA	526.0	PANHANDLE EASTERN
-VIERSEN & COCHRAN				RECEIVED:	02/25/83	JA: OK			
8325139	20268	3504721588		103		KREIE #3	SOONER TREND	150.0	UNION TEXAS PETRO
-VULCAN ENERGY CORP				RECEIVED:	02/22/83	JA: OK			
8325046	19756	3507323318		103		KLOEPPEL #1	SOONER TREND	23.7	CITIES SERVICE GA
-WARD PETROLEUM CORP				RECEIVED:	02/22/83	JA: OK			
8325094	20117	3502720682		103		WEIDENMAIER #1	SW MOORE	200.0	SUN GAS CO
-WARD PETROLEUM CORP				RECEIVED:	02/25/83	JA: OK			
8325149	20118	3502720685		103		J H SMITH A-2	NW NORMAN	73.0	SUN GAS CO
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	02/22/83	JA: OK			
8325092	20103	3509322508		103		PATTERSON #1-19	SOUTHWEST AMES	29.2	PHILLIPS PETROLEU
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	02/25/83	JA: OK			
8325146	19192	3507323554		103		SPARKS #1-31	WEST DOVER	73.0	CITIES SERVICE GA
WYOMING OIL & GAS CONSERVATION COMMISSION									
-PETRO ENERGY INC				RECEIVED:	02/28/83	JA: WY			
8325186	NG 60-81	4904507174		103		POPHAM 1-22	LONETREE CREEK	40.0	PHILLIPS PETROLEU

[FR Doc. 83-7875 Filed 3-25-83; 8:45 am]

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Monday, March 28, 1983

INFORMATION AND ASSISTANCE

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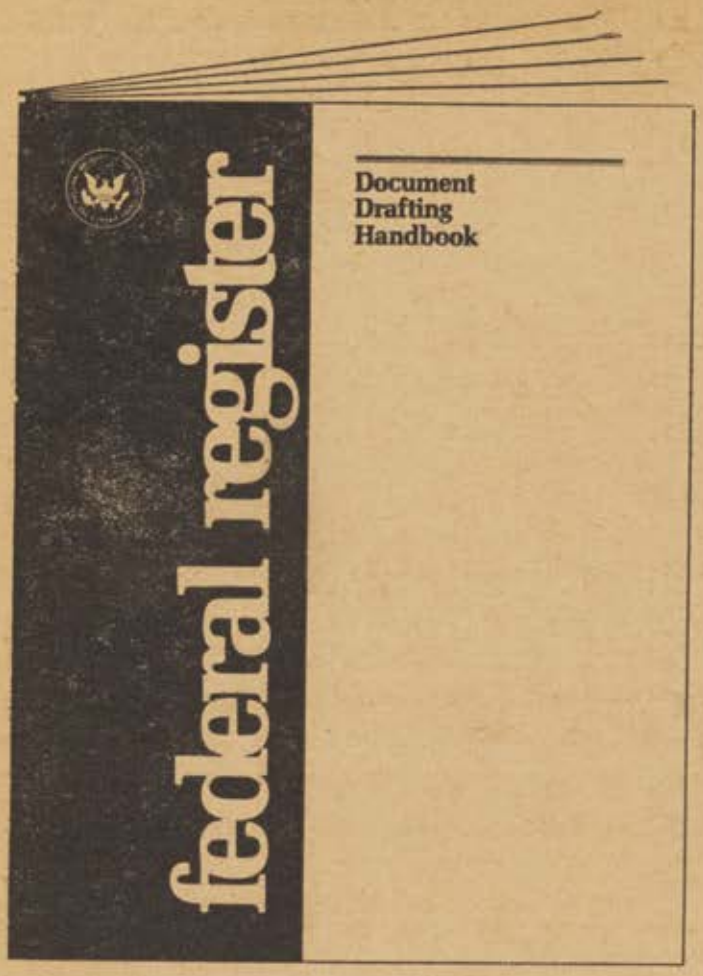

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