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Tuesday
December 6, 1983

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Agricultural Marketing Service

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Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Air Rates and Fares
Federal Communications Commission

Aviation Safety
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Banks, Banking
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Endangered and Threatened Species
Animal and Plant Health Inspection Service

Fisheries
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Flood Insurance
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Food and Drug Administration

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-348]

Mexican Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends subpart 301.64 ("Subpart—Mexican Fruit Fly") of the domestic quarantine notices (7 CFR 301.64 *et. seq.*) by (1) adding California to the list of quarantined States; (2) adding certain portions of Los Angeles County, California, to the list of regulated areas; (3) adding certain articles to the list of regulated articles; and (4) editing and reorganizing subpart 310.64. This document is necessary, on an emergency basis, to prevent the artificial spread interstate of Mexican fruit fly, *Anastrepha ludens* (Loew), into noninfested areas of the United States and for the purpose of clarifying the regulations. The effect of these amendments are to impose restrictions on the interstate movement of regulated articles from regulated areas in California into or through Arizona, Florida, Guam, Hawaii, Puerto Rico, Texas, the Virgin Islands of the United States and certain Parishes in Louisiana.

DATES: Effective December 6, 1983. Written comments concerning this interim rule must be received on or before February 6, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8295:

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. Due to the possibility that Mexican fruit fly could be spread artificially to certain noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

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

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is an extremely destructive pest of certain fruits and vegetables. The Mexican fruit fly can cause serious economic loss and it has a short life cycle that allows rapid development of serious outbreaks.

Infestations of Mexican fruit fly have been known to exist in certain areas in Texas. Regulations intended to prevent the interstate spread of Mexican fruit fly from these areas have been in effect since 1972. These quarantine and regulations, captioned "Subpart—Mexican Fruit Fly", are found in Title 7, Code of Federal Regulations, 301.64 (7 CFR 301.64 through 301.64–10). The quarantine and regulations in effect in 7 CFR 301.64 prior to the publication of this document quarantined the State of Texas for Mexican fruit fly (7 CFR 301.64(a)), designated certain fruits as regulated articles (7 CFR 301.64(b)), and prohibited the interstate movement of regulated articles from regulated areas into Arizona; California; Florida; Hawaii; Iberia, Jefferson, Lafayette, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. Mary, and Terrebonne Parishes in Louisiana; Puerto Rico; Guam; and the Virgin Islands of the United States except in accordance with certain conditions prescribed in other sections in the subpart. These conditions included requiring that the regulated articles be treated and moved under certificate or limited permit except in certain situations (7 CFR 301.64–3). The regulations also prescribed conditions for issuing and cancelling certificates, limited permits and compliance agreements (7 CFR 301.64–4 and 301.64–5).

Adult Mexican fruit flies and Mexican fruit fly larvae have recently been found in fruit and traps in areas in Los Angeles County, California. In order to prevent the artificial spread of the Mexican fruit fly to noninfested areas in the United States, it is necessary to amend on an emergency basis the quarantine and regulations in subpart 301.64. This document amends § 301.64 by (1) quarantining the State of California for Mexican fruit fly, (2) adding to the list of regulated areas certain areas in Los Angeles County, California, (3) adding to the list of regulated articles certain fruits and soil, and (4) making certain additional changes reflecting current regulatory practices, and editorial or organizational changes to subpart 301.64. These changes include deleting certain definitions and regulatory concepts which are no longer used or necessary, clarifying certain words and phrases which are vague, and reorganizing the subpart so that it will conform organizationally with other quarantines and regulations in the domestic quarantine notices. These amendments are explained in detail and the full text of revised subpart 301.64 is set forth below.

Regulated Areas

Infestations of Mexican fruit fly were found in areas of Los Angeles County, California, on October 25, 1983. These areas remain infested at this time. These findings are based on trapping surveys by inspectors of the U.S. Department of Agriculture and State agencies of California. These areas are specifically described in new § 301.64–3 and are designated as "regulated areas". The area in Los Angeles County designated as a regulated area is described as follows:

That portion of the county bounded by a line beginning at a point where Santa Monica Freeway (Interstate 10) intersects State Highway 110; then southerly on State Highway 110 until it intersects with Century Boulevard; then easterly on Century Boulevard and its extension to Alameda Street; then southward along Alameda Street until it intersects with Imperial Highway; then easterly along Imperial Highway until it intersects with Garfield Avenue; then northerly along Garfield Avenue until it intersects with Eastern Avenue; then northerly along Eastern Avenue until it intersects with Interstate 5; then northwesterly a long Interstate 5 until it intersects with the Santa Monica Freeway; then westerly along the Santa Monica Freeway until it intersects with State Highway 110 (the point of beginning).

It is necessary to designate the above described portion of Los Angeles County as a regulated area because it is an area in which the Mexican fruit fly has been found, or in which the Deputy Administrator has reason to believe the Mexican fruit fly is present or an area deemed necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities where Mexican fruit fly has been found.

Regulated Articles

This document also amends the regulations by adding to the list of regulated articles cherimoya and custard apple (*Annona* spp.), rose apple (*Syzgium* (Eugenia)); pomegranate (*Punica granatum*), Spanish plum and purple mombin (*Spondias* spp.), nectarine (*Prunus persica*) and soil within the drip line of plants producing, or which have produced, fruit listed as regulated articles.

It is necessary to add the above-mentioned fruits to the list of regulated articles because they are articles grown or found in the regulated area in California and are hosts of Mexican fruit fly. Further, it is necessary to add soil within the drip line of plants producing, or which have produced, fruit listed as regulated articles because it is the industry practice in the regulated area of California for nurseries to sell plants with the roots in soil while the plants are bearing or have borne fruit. When such plants are bearing or have borne fruit that are hosts of the Mexican fruit fly, the fruit of such plants can attract the Mexican fruit fly and the larvae pupae from the Mexican fruit fly can also infest soil within the drip line of such fruit.

Rose apple, nectarine, pomegranate, cherimoya, custard apple, Spanish plum and purple mombin, are not fruits commonly grown or found in the regulated areas in Texas. Therefore, there has not been a need until the present outbreak occurred in California to add these articles to the list of articles regulated for Mexican fruit fly. In addition, contrary to the industry practice in California, it is the industry practice in the regulated areas of Texas to sell plants while they are quite young and before the plant has borne fruit. Since it is the host fruit which attracts the Mexican fruit fly to the plant and soil within the drip line of such plant, such soil does not pose a threat until the plant produces fruit. Therefore, it has not been necessary until now to regulate the soil within the drip line of plants bearing regulated fruit.

This document also amends, for clarification purposes, the list of regulated articles by listing, alphabetically, the regulated articles by their common name and by their genus or family name. Listing fruit by genus or family name is more precise than listing such articles by their common name and listing articles by their common name makes it easier for the public to recognize the regulated article. Prior to the publication of this document, regulated articles were listed in § 301.64(b) sometimes by their common name and sometimes by genus. For instance, the regulations in effect prior to this amendment listed, as a regulated article, the fruit "plum". However, there are several different genera, species or varieties of "plum", and all are hosts of the Mexican fruit fly. Therefore, this amendment is necessary to unify the listing of regulated articles by common name and by genus or family name. Further, this document adds the following statement to the list of regulated articles in new § 301.64–2: "Except that the list does not include any fruits which have been canned or frozen below −17.8°C (0°F)." This statement is necessary to make clear the Department's intent only to regulate fresh fruits, and not fruits that have been canned or frozen. This is because the process of canning or freezing at temperature of −17.8°C (0°F) fresh fruits will destroy Mexican fruit fly larvae in the fruit. Therefore, such articles do not pose a risk of artificially spreading Mexican fruit fly.

This document also amends the regulations by listing the regulated articles in § 301.64–2 instead of § 301.64(b). New § 301.64–2, captioned "Regulated Articles" lists the following as regulated articles:

(a) The following fruits are regulated articles:

Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaco*)
Avocado (*Persea americana*)
Calamondin orange (*X citrofortunella mitis*)
Cherimoya (*Annona cerimola*)
Citrus citron (*Citrus medica*)
Custard apple (*Annona reticulata*)
Grapefruit (*Citrus paradisi*)
Guava (*Pisdium guajava*)
Japanese plum (*Prunus salicina*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*) except Eureka, Lisbon, and Villa Franca cultivars (smooth-skinned sour lemon)
Lime (*Citrus aurantiifolia*) except sour limes
Mamey (*Mammea americana*)
Mandarin orange (tangerine) (*Citrus reticulata*)
Mango (*Mangifera indica*)
Nectarine (*Prunus persica*)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Prune, Plum (*Prunus domestica*)
Pummelo (Shaddock) (*Citrus maxima*)
Quince (*Cydonia oblonga*)
Rose apple (*Syzygium jambos* (*Eugenia jambos*))
Sour orange (*Citrus aurantium*)
Sapote (*Casimiroa* spp.)
Sapota, Sapodilla (Sapotaceae)
Sargentia, yellow chapote (*Sargentia greggii*)
Spanish plum, purple mombin or Ciruela (*Spondias* spp.)
Sweet orange (*Citrus sinensis*)

Except that the list does not include any fruits which have been canned or frozen below −17.8°C (0°F);

(b) Soil within the drip line of plants which are producing or have produced the fruits listed in paragraph (a) of this section, and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) or (b) of this section, when it is determined by an inspector that it presents a risk of spread of the Mexican fruit fly and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the restrictions of this section.

Additional Changes by Section

In addition to the changes described above, this document amends subpart 301.64 by reorganizing the format of the subpart; by deleting certain definitions and provisions no longer needed or

used; by clarifying the definitions of certain terms; by placing, as footnotes, certain information formerly found in the regulations; and by listing the treatment schedules available for regulated articles instead of incorporating by reference into the regulations these treatment schedules. These amendments are described below section by section.

Section 301.64

First, as mentioned above, this document amends § 301.64 by deleting the list of regulated articles (they are transferred to new § 301.64–2) in subsection (b); by shortening, for editorial purposes, the quarantine language in subsection (a); and by rewriting subsection (b) to make clear that the regulations in subpart 301.64 apply only to regulated articles moving interstate from regulated areas into or through Arizona, California, Florida, Hawaii, Puerto Rico, Guam, Texas, the Virgin Islands of the United States and certain Parishes in Louisiana.

The above-described revision to subsection (b) in § 301.64 eliminates the need for old § 301.64–2b, captioned "Exemptions," and the accompanying footnote 1, and old § 301.64–2(b), captioned "Exemption from Certification, Permit or other Requirements." Accordingly, this document amends subpart 301.64 by deleting old § 301.64–2b and the accompanying footnote 1, and old § 301.64–2(b).

Additionally, this document amends § 301.64 by adding two new footnotes. New footnote 1 provides that:

"Any properly identified inspector is authorized to stop and inspect persons and of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff)."

New footnote 2 provides that:

"Regulations concerning the movement of live Mexican fruit flies in interstate or foreign commerce are contained in Part 330 of this chapter."

Footnotes 1 and 2 restate information formerly found in old §§ 301.64–8 and 301.64–9, respectfully. Accordingly, this document deletes old §§ 301.64–8 and 301.64–9. The information found in old §§ 301.64–8 and 301.64–9 was placed in footnotes because it is the type of information which merely cross references other statutory or regulatory provisions; it does not place restrictions on the interstate movement of regulated articles from regulated areas for Mexican fruit fly. Therefore, it is more appropriate to footnote this information.

Section 301.64–1

This document amends § 301.64–1, captioned "Definitions," by redefining the following terms: "certificate", "compliance agreement", "limited permit", "regulated area" and "regulated article" so that these definitions conform with the definition of these terms as they are used in other domestic quarantine notices; "State" is redefined to conform with more recent and preferred usage. Further § 301.64–1 is amended by deleting definitions of the following terms: "generally infested area", "host fruits", "restricted destination permit", "scientific permit", "suppressive area" and "treatment manual." These terms are deleted because they are no longer used or the concepts are incorporated into the regulations in definitions of other terms. Therefore, it is no longer necessary to have these terms defined in order to understand subpart 301.64.

Specifically, the term "host fruits" is no longer used in subpart 301.64 and this concept is incorporated into the term "regulated article." The terms "scientific permit" and "restricted destination permit" are no longer used in subpart 301.64 because it is the practice of Plant Protection and Quarantine to issue limited permits or certificates in place of scientific permits or restricted destination permits when a situation arises where an individual wants to move regulated articles interstate for scientific or other purposes.

The terms "generally infested area" and "suppressive area" are being deleted because they reflect regulatory concepts no longer used by Plant Protection and Quarantine in regulating Mexican fruit fly. Presently, the regulatory concept followed is to consider the following areas in a quarantined State the same for regulatory purposes: (1) Where Mexican fruit fly has been found; (2) where there is reason to believe it exists; (3) areas deemed necessary to regulate because of their proximity to infested localities; and (4) areas which are inseparable for quarantine enforcement purposes, from infested localities. All such areas in a quarantined State are designated as "regulated areas."

Section 301.64–1 is further amended by deleting the term "treatment manual." Prior to the publication of this document the treatment schedules for regulated articles, required under certain circumstances as a condition of interstate movement of regulated articles, were incorporated by reference into the regulations through the term "treatment manual". As described elsewhere in this document, the regulations are amended by publishing the treatment schedules in new § 301.64–10. Therefore, there is no longer a need to define in § 301.64–1 the term "Treatment Manual" or use this term in the regulations.

Sections 301.64–2, 301.64–2a, 301.64–2b and 301.64–3

For reasons described elsewhere in this document, sections numbered §§ 301.64–2, and 301.64–2a and 301.64–2b prior to the publication of this document, are deleted. Section 301.64–2 is renumbered § 301.64–3, captioned "Regulated areas", and the regulatory concept formerly found in §§ 301.64–2a and 301.64–2b are incorporated into new § 301.64(b). Further, § 301.64–3 is renumbered as § 301.64–4, captioned "Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States" and footnote 2 of § 301.64–3 is renumbered as footnote 3.

Sections 301.64–4 and 301.64–5

Sections 301.64–4 and 301.64–5 are amended by being renumbered as §§ 301.64–5 and 301.64–6, respectfully. New § 301.64–5, captioned "Issuance and cancellation of certificates and limited permits," has been rewritten and reorganized to conform with the language and organization used in a similar section in other domestic quarantine notices. Additionally, a new subparagraph (2) (§ 301.64–5(a)(2)) is added for information purposes to reflect emergency authority in section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) and two new footnotes, numbered 4 and 5, are added for information purposes. New footnote 4 provides for monitoring of treatments by inspectors and new footnote 5 contains emergency authority provided by the Federal Plant Pest Act.

New § 301.64–6, captioned "Compliance agreement and cancellation thereof," has amended old § 301.64–5 by making certain editorial changes to conform the language in this section with the language used in a similar section in other domestic quarantine notices. Additionally, subsection (b) has been enlarged to explain in greater detail the due process procedures afforded a party that has had a compliance agreement cancelled. Further, a new footnote, number 6, is added to explain where an individual can obtain compliance agreement forms.

Sections 301.64–6 and 301.64–7

This document amends § 301.64–6, captioned "Assembly and inspection of regulated articles," by renumbering it as § 301.64–7. Further this section is reorganized into two subsections, lettered (a) and (b). Additionally, this document amends old § 301.64–6 by adding the phrase "(should be no less than 48 hours before the desired movement)". This is done to clarify what is meant by the phrase "as far in advance as possible" found in that section. In addition, a new footnote, number 7, is added to explain where information on local offices of Plant Protection and Quarantine can be obtained.

This document amends § 301.64–7, captioned "Attachment and disposition of certificates and permits," by renumbering it as § 301.64–8. In addition, certain editorial changes have been made to this section to conform with the language of a similar section in other domestic quarantine notices.

Sections 301.64–8 and 301.64–9 and 301.64–10

For reasons previously mentioned, this document deletes §§ 301.64–8 and 301.64–9. Further, old § 301.64–10, captioned "Nonliability of the Department", is renumbered as § 301.64–9 and recaptioned as "Costs and Charges." This paragraph has been rewritten to more accurately reflect the Department's intent, namely that, although the services of an inspector are furnished without cost to persons requiring inspection or other services, any costs or charges incidental to inspection or compliance with the provisions of the quarantine and regulations in subpart 301.64, other than an inspector's services, are not the responsibility of the Department of Agriculture.

Treatments

Further, this document amends subpart 301.64 by adding a new § 301.64–10, captioned "Treatments." This section sets forth treatment schedules for certain regulated articles that must be met if such articles are to be certified prior to movement as provided in § 301.64–4. These treatments are recommended because research has determined that these treatments would be adequate to destroy the Mexican fruit fly with little or no effect on the regulated article. Treatment schedules have not been developed for all regulated articles. However, § 301.64–5 provides alternatives to treatment by cold storage, EDB or diazinon that can be used if an individual wishes to obtain a certificate or limited permit for the interstate movement of the regulated article from a regulated area.

The treatment schedules for regulated articles in § 301.64–10 are as follows:

(a) Apple, grapefruit, orange, pear, plum, pomegranate, quince and tangerine:

Cold treat the fruit according to one of the following:

18 days at 0.55°C (33°F) or below
20 days at 1.11°C (34°F) or below
22 days at 1.66°C (35°F) or below

(b) Grapefruit, orange, plum* and tangerines:

Fumigation with ethylene dibromide (EDB) at normal atmospheric pressure.

Dosage as follows:

Fruit load in chamber (percent)	Dosage of EDB in g/m³ (oz/1000 ft³) for 2 hrs.		
	10°–15°C (50°–59°F) (oz.)	15.5°–20.5°C (60°–69°F) (oz.)	21°C or above (70°F or above) (oz.)
25 or less	12g	10g	8g
26 to 49	14g	12g	10g
50 to 80	16g	14g	12g

Post-treatment aeration: Forced circulation in the fumigation chambers for ½ hour following treatment and then place in a well ventilated area.

(c) Soil within the drip line of plants which are producing or have produced fruits listed in section 301.64–2(a): Host fruits must be removed from host plants prior to treatment.

Material: Diazinon.
Dosage: Apply five pounds a.i. per acre (0.12 pounds or two ounces avdp. per 1,000 square feet)
Method: Soil drench using ground equipment. Apply with 130 gallons of water per acre (three gallons per 1,000 square feet) under hosts
Frequency/timing: Three applications at 14 to 16 day intervals as needed. Applications may be repeated if infestations become established

In addition to the above directions, EDB and Diazinon must be applied in accordance with all label directions.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This amendment affects the interstate movement of regulated articles from a portion of Los Angeles County, California, which is about 35 square miles in size. It appears that there is very little commercial activity that occurs in the regulated area. Specifically, the regulated area is comprised of local private farms and the only commercial activity in the regulated area appears to come from 7 local nurseries and local street vendors. These entities sell regulated articles primarily for local intrastate not interstate movement. Further, this number compares with thousands of small entities that move such articles interstate from nonregulated areas in California and many more thousands of small entities that move such articles interstate from other States.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mexican fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the Mexican Fruit Fly quarantine and regulations in 7 CFR 301.64–301.64–10 (7 CFR 301.64 *et. seq.*) are revised to read as follows:

Subpart—Mexican Fruit Fly Quarantine and Regulations

Sec.

301.64 Quarantine and regulations; restrictions on interstate movement of regulated articles.
301.64–1 Definitions.
301.64–2 Regulated articles.
301.64–3 Regulated areas.
301.64–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.
301.64–5 Issuance and cancellation of certificates and limited permits.
301.64–6 Compliance agreement and cancellation thereof.

*Restrict load limit for plums to 50 percent of the chamber volume.

301.64–7 Assembly and inspection of regulated articles.
301.64–8 Attachment and disposition of certificates and limited permits.
301.64–9 Costs and charges.
301.64–10 Treatments.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 38477, as amended; 45 FR 8564, 8565.

* * * * *

Subpart—Mexican Fruit Fly Quarantine and Regulations

§ 301.64 Quarantine and regulations; restrictions on interstate movement of regulated articles.[1, 2]

(a) *Quarantine and regulations.* The Secretary of Agriculture hereby quarantines the States of California and Texas in order to prevent the artificial spread of the Mexican fruit fly, a dangerous plant pest not heretofore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in § 301.64–2.

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move from any regulated area any regulated article interstate into or through Arizona; California; Florida; Guam; Hawaii; Puerto Rico; Texas; the Virgin Islands of the United States; and Iberia, Jefferson, Lafayette, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. Mary and Terrebonne Parishes in Louisiana, except in accordance with the conditions prescribed in this subpart.

§ 301.64–1 Definitions.

Terms used in the singular form in this subpart shall be construed as a plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.64–5(c).

(b) *Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(c) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(d) *Infestation.* The presence of the Mexican fruit fly or the existence of circumstances that make it reasonable to believe that the Mexican fruit fly is present.

(e) *Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantines and regulations in this subpart.

(f) *Interstate.* From any State into or through any other State.

(g) *Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.64–5(b).

(h) *Mexican fruit fly.* The insect known as Mexican fruit fly (*Anastrepha ludens* (Loew)) in any stage of development.

(i) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(k) *Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

(l) *Regulated area.* Any State, or any portion thereof, listed in § 301.64–3(c) or otherwise designated as a regulated area in accordance with § 301.64–3(b).

(m) *Regulated article.* Any article listed in § 301.64–2 of otherwise designated as a regulated article in accordance with § 301.64–2(c).

(n) *State.* Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States and all other territories and possessions of the United States.

§ 301.64–2 Regulated articles.

(a) The following fruits are regulated articles:

Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Calamondin orange (*X citrofortunella mitis*)
Cherimoya (*Annona cherimola*)
Citrus citron (*Citrus medica*)
Custard apple (*Annona reticulata*)
Grapefruit (*Citrus paradisi*)
Guava (*Pisdium guajava*)
Japanese plum (*Prunus salicina*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*) except Eureka, Lisbon, and Villa Franca cultivars (smooth-skinned sour lemon)
Lime (*Citrus aurantiifolia*) except sour limes
Mamey (*Mammea americana*)
Mandarin orange (tangerine) (*Citrus reticulata*)
Mango (*Mangifera indica*)
Nectarine (*Prunus persica*)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Plum (*Prunus americana*)
Pomegranate (*Punica granotum*)
Prune, Plum (*Prunus domestica*)
Plummelo (Shaddock) (*Citrus maxima*)
Quince (*Cydonia oblonga*)
Rose apple (*Syzygium jambos (Eugenia jambos)*)
Sour orange (*Citrus aurantium*)
Sapote (*Casimiroa spp.*)
Sapota, Sapodilla (Sapotaceae)
Sargentia, yellow chapote (*Sargentia greggii*)
Spanish plum, purple mombin or Ciruela (*Spondias spp.*)
Sweet orange (*Citrus sinensis*)

Except that the list does not include any fruits which have been canned, or frozen below −17.8°C (0°F);

(b) Soil within the drip line of plants which are producing or have produced the fruits listed in paragraph (a) of this section, and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) or (b) of this section, when it is determined by an inspector that it presents a risk of spread of the Mexican fruit fly and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the restrictions of this section.

§ 301.64–3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[2] Regulations concerning the movement of live Mexican fruit flies in interstate or foreign commerce are contained in Part 330 of this chapter.

Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which the Mexican fruit fly has been found by an inspector or in which the Deputy Administrator has reason to believe that the Mexican fruit fly is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonregulated area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

California

Los Angeles County. That portion of the county bounded by a line beginning at a point where Santa Monica Freeway (Interstate 10) intersects State Highway 110; then southerly on State Highway 110 to its intersection with Century Boulevard; then easterly on Century Boulevard to its intersection with Grape Street; then easterly from Grape Street along an imaginary line to its intersection with the intersection of Tweedy Boulevard and Alameda Street; then southward along Alameda Street until it intersects with Imperial Highway; then easterly along Imperial Highway until it intersects with Garfield Avenue; then northerly along Garfield Avenue until it intersects with Eastern Avenue; then northerly along Eastern Avenue until it intersects with Interstate 5; then northwesterly along Interstate 5 until it intersects with the Santa Monica Freeway; then westerly along the Santa Monica Freeway until it intersects with State Highway 110 (the point of beginning).

Texas

Brooks County. The entire county.
Cameron County. The entire county.
Dimmit County. The entire county.
Hidalgo County. The entire county.
Jim Hogg County. The entire county.
Jim Wills County. That portion of the county lying south of Highway 141 and a line projected due west to the Jim Wills-Duval County line from the point where Highways 141 and 281 intersects.
La Salle County. The entire county.
Starr County. The entire county.
Webb County. The entire county.
Willacy County. The entire county.
Zapata County. The entire county.

§ 301.64–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[3]

Any regulated article may be moved from any regulated area in a quarantined State interstate into or through Arizona, California, Florida, Guam, Hawaii, Puerto Rico, Texas, the Virgin Islands of the United States and Iberia, Jefferson, Lafayette, Lafourche, Orlean, Plaquemeines, St. Bernard, St. Charles, St. Mary and Terrebonne Parishes in Louisiana only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.64–5 and 301.64–8;

(b) Without a certificate or limited permit, if

(1) Moved to any State not listed in § 301.64(b) or

(2)(i) Moved directly through (moved without stopping except under normal traffic conditions, such as for traffic lights or stop signs) any regulated area in an enclosed vehicle or completely enclosed by a covering adequate to prevent the introduction of the Mexican fruit fly (such as canvas, plastic , or closely woven cloth), and

(ii) The article originated outside of any regulated area, and

(iii) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.64–5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if such inspector:

(1)(i) Determines that it has been treated under the direction of an inspector[4] in accordance with § 301.64–10; or

(ii) Determines based on inspection of the premises of origin that the premises are free from the Mexican fruit fly and the article has not been exposed to Mexican fruit fly; or

(iii) Determines based on inspection of the article that it is free from Mexican fruit fly; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Mexican fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[5] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, processing, or for treatment in accordance with § 301.64–10 (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of the Mexican fruit fly because life stages of the pest will be destroyed by such specified handling, utilization, processing, or treatment;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Mexican fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[5] and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

[3] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

[4] Treatments shall be monitored by inspectors in order to assure compliance with the requirements in this subpart.

[5] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means or conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

(c) Certificates and limited permits for use for movement of regulated articles may be issued by an inspector or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if such person has treated such regulated article to destroy infestation in accordance with the provisions in § 301.64–10 and the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that such article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.64–6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[6] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.64–7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.64–5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector [7] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.64–8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at the times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document; *Provided however*, That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.64–9 Costs and charges.

The service of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.64–10 Treatments.

Treatments for regulated articles shall be as follows:

(a) Apple, grapefruit, orange, pear, plum, pomegranate, quince and tangerine:

Cold treat the fruit according to one of the following:

18 days of 0.55°C (33°F) or below
20 days at 1.11°C (34°F) or below
22 days at 1.66°C (35°F) or below

(b) Grapefruit, orange, plum [8] and tangerines:

Fumigation with ethylene dibromide (EDB) at normal atmospheric pressure.

Dosage as follows:

Fruit load in chamber (percent)	Dosage of EDB in g/m³ (oz/1,000 ft³) for 2 hrs.		
	10°–15°C (50°–59°F) (oz.)	15.5°–20.5°C (60°–69°F) (oz.)	21°C or above (70°F or above) (oz.)
25 or less	12 g	10 g	8 g
26 to 49	14 g	12 g	10 g
50 to 80	16 g	14 g	12 g

Post-treatment aeration: Forced circulation in the fumigation chambers for ½ hour

[6] Compliance Agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

[7] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

[8] Restrict load limit for plums to 50 percent of the chamber volume.

following treatment and then place in a well ventilated area.

(c) Soil within the drip line of plants which are producing or have produced fruits listed in section 301.64–2(a):

Host fruits must be removed from host plants prior to treatment.

Material: Diazinon
Dosage: Apply five pounds a.i. per acre (0.12 pounds or two ounces avdp. per 1,000 square feet)
Method: Soil drench using ground equipment. Apply with 130 gallons of water per acre (three gallons per 1,000 square feet) under hosts
Frequency/timing: Three applications at 14 to 16 day intervals as needed. Applications may be repeated if infestations become established.

In addition to the above, EDB and Diazinon must be applied in accordance with all label directions.

Done at Washington, D.C., this 1st day of December, 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-32420 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 583; Navel Orange Reg. 581, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California Arizona navel oranges that may be shipped to market during the period December 9–15, 1983, and increases the quantity of such oranges that may be shipped during the period November 25–December 1, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: Section 907.883 is effective December 9, 1983, and the amendment to § 907.881 is effective for the period November 25–December 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of naval oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on November 29, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

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

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. § 907.883 is added as follows:

§ 907.883 Navel Orange Regulation 583.

The quantities of navel oranges grown in California and Arizona which may be handled during the period December 9, 1983 through December 15, 1983, are established as follows:

(1) *District 1:* 1,472,000 cartons;
(2) *District 2:* Unlimited cartons;
(3) *District 3:* 128,000 cartons;
(4) *District 4:* Unlimited cartons.

2. § 907.881 Navel Orange Regulation 581 (48 FR 52466), is hereby amended to read:

§ 907.881 Navel Orange Regulation 581.

* * * * *

(1) *District 1:* 1,242,000 cartons;
(2) *District 2:* Unlimited cartons;
(3) *District 3:* 108,000 cartons;
(4) *District 4:* Unlimited cartons.

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

Dated: December 1, 1983.

Russell L. Hawes,

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

[FR Doc. 83-32485 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 4 and 5

[Docket 83-52]

Description of Office Procedures, Public Information; Correction and Amendments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule; corrections and amendments.

SUMMARY: The Office of the Comptroller of the Currency (Office) is providing amendments to the description of Office procedures and public information that appeared at 48 FR 16649 (April 19, 1983) to facilitate the orderly transition from a regional to a district office structure. This action amends the completion dates for the reorganization of the Richmond Regional Office, corrects a typographical error in the office address for the Northeastern district, and authorizes District Administrators to act on various corporate applications. No substantive change is made in the existing authority of Deputy Comptrollers for the districts and remaining Regional Administrators to act on corporate applications.

EFFECTIVE DATE: December 6, 1983.

FOR FURTHER INFORMATION CONTACT: Douglass A. Moore, Reorganization Coordinator, Operations Analysis Division (202) 287–4495; or Jonathan H. Rushdoony, Attorney, Legal Advisory Services Division (202) 447–1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Reorganization of two districts has been rescheduled for completion as follows:

Northeastern District, March 31, 1984
Southeastern District, December 31, 1983

These changes are the result of an acceleration of the Richmond Regional Office reorganization. The Richmond Regional Office was previously targeted to be reorganized December 1, 1983, through May 1, 1984. It will now be reorganized July 1, 1983, through December 31, 1983. The Richmond reorganization has been retargeted to coincide with the relocation of employees out of the Richmond office.

The address of the Northeastern District Office is being changed to correct a typographical error.

The reorganization from a regional to a district office structure requires that Regional Administrators' authority to act on corporate applications be transferred to the senior executives of the new districts: the Deputy Comptrollers for the districts and the District Administrators. During the initial period of the reorganization, the Office provided that Deputy Comptrollers for the newly formed districts were to assume Regional Administrators' authority to act on corporate applications. To enable the new Deputy Comptrollers to devote more time to the development of Office policy, the Comptroller is appointing District Administrators to assist the Deputy Comptrollers in the performance of their duties. The amendments provided herein accordingly authorize newly appointed District Administrators to act on corporate applications under their own titles. Technical amendments are also provided to clarify the scope of authority delegated to Deputy Comptrollers for the districts and District Administrators.

Previous delegations by the Comptroller have authorized Regional Administrators and Deputy Comptrollers for the districts to act on corporate applications under their own titles. Prior to the reorganization of the Office's structure, Regional Administrators were authorized under 12 CFR 4.1a(c) and 5.3(c) to act on the corporate applications specified therein. During the initial period of the reorganization, the Office published an amendment to 12 CFR 4.1a(c) establishing that Deputy Comptrollers (rather than Regional Administrators) are authorized to act on corporate applications specified therein as the chief executive officers of the newly formed districts. To avoid the issuance of unnecessary regulations during the transition to a district office structure, the amendment did not explicitly amend 12 CFR 5.3(c) and other provisions of the Code of Federal Regulations containing references to Regional Administrators' authority to act on corporate applications. Nevertheless, the preamble to the amendment provided that the position of Deputy Comptroller for a district was replacing the position of Regional Administrator; thus, Deputy Comptrollers were implicitly authorized to act on corporate applications specified by 12 CFR 5.3(c). Finally, the amendment provided that any remaining Regional Administrator serving as the senior official in a geographic area maintained his or her existing authority to act on corporate applications.

The present amendments revise the existing delegation provisions of 12 CFR 4.1a(c) and 5.3 in five ways. First, District Administrators are being included among the officials who are authorized to act on corporate applications. The delegation of authority at § 5.3(c) is accordingly being revised to provide that District Administrators (rather than Regional Administrators) are authorized to act on the applications specified therein. Next, the delegation provisions of § 4.1a(c) are being deleted from that section and incorporated by revised § 5.3 to eliminate the duplication and potential for confusion arising from the provision of related delegations at both § 4.1a(c) and 5.3(c). The matters deleted from § 4.1a(c) and incorporated by revised § 5.3 include (1) the previous delegation of authority to Deputy Comptrollers for the newly formed districts, (2) the delegated authority to approve or disapprove cash dividends pursuant to 12 U.S.C. 60(b), and (3) the authority of the remaining Regional Administrators to act on corporate applications. Third, the delegated authority to approve changes in corporate titles is being removed from the list of applications provided at § 5.3(c)(3) because Office officials no longer approve such changes. *See* 48 FR 8428 (March 1, 1983) (final rule eliminating requirement that corporate title changes be approved by the Office). Fourth, the delegated authority at § 5.3(c)(3) to approve relocations of domestic branches is being amended to include relocations of CBCT branches. Finally, the delegated authority to approve relocations of head offices is being amended to exclude relocations to authorized branch locations within the city, town or village limits of a head office since Office officials no longer approve such relocations. *See* 48 FR 26758 (June 10, 1983) (final rule on relocation policies and procedures).

To facilitate an orderly reorganization in accordance with the preceding purposes, the delegations at amended section 5.3 authorize Deputy Comptrollers for the districts and District Administrators to act on the corporate applications specified by § 5.3(c) subject to the limitations contained therein. Any remaining Regional Administrator who is the senior official in a geographic area shall exercise the authority delegated to Deputy Comptrollers and District Administrators to act on corporate applications for matters arising in the geographic area.

Notice and Comment

The Office has determined that notice and comment are unnecessary under 5 U.S.C. 553(b)(A) since this rulemaking pertains to rules of agency organization and procedure.

Regulatory Flexibility Act

A Regulatory Flexibility Analysis is required only for rules issued for notice and comment. Because this amendment is exempt from notice and comment procedures, no Regulatory Flexibility Analysis will be prepared.

Executive Order 12291

Section 1(a)(3) of Executive Order 12291 exempts from coverage regulations related to agency organization, management, or personnel. Since this amendment is so classified, no Regulatory Impact Analysis is required.

Lists of Subjects in 12 CFR Parts 4 and 5

National banks, Organization and functions (government agencies), Public information, Official forms, District offices, Field offices, Procedures, Delegation, Corporate activities.

PART 4—DESCRIPTION OF OFFICE PROCEDURES, PUBLIC INFORMATION

For the reasons given in the preamble, 12 CFR Part 4 is amended as follows:

1. The authority citation for Part 4 reads as follows:

Authority: 12 U.S.C. 1 *et seq.*, 5 U.S.C. 552, unless otherwise noted.

2. Section 4.1a is amended by revising the Office Address of the Northeastern District (New York) and the Richmond Region Target dates in the chart

appearing under paragraph (b)(1) to read as follows:

§ 4.1a Central and field organization; delegations.

* * * * *

(b) * * *

(1) * * *

District (headquarters office)	Area within district	Office address	Effective date
Northeastern (New York)	* * *	1211 Avenue of the Americas, Suite 4250, New York, New York 10036.	* * *

Present region	Area within region	Regional office address	Target date (future district)
*	*	*	*
Richmond Region	* * * * * *	* * * * * *	December 31, 1983 (Northeastern District). December 31, 1983 (Southeastern District).

3. Paragraph (c) of § 4.1a is revised to read as follows:

(c) *Delegations.* Delegations of authority to act on corporate matters by the Comptroller of the Currency to officials of the district offices are provided at 12 CFR 5.3.

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

For the reasons given in the preamble, 12 CFR Part 5 is amended as follows:

1. The authority citiation for Part 5 reads as follows:

Authority: 12 U.S.C. Secs. 1 *et seq.*

2. Section 5.3 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 5.3 Corporate activities processing and delegations.

* * * * *

(c) *District offices.* (1) As the chief executive officer of a district office, a Deputy Comptroller for a district is delegated by the Comptroller of the Currency the authority to act in any matter delegated to a District Administrator under § 5.3(c).

(2) Each District Administrator is delegated the authority to act for the Comptroller of the Currency in the following matters:

(i) Approval or disapproval of capital increases through stock dividends or sales of additional common stock;

(ii) Approval or disapproval of an increase in the par value of common stock;

(iii) A letter of notification submitted for the establishment or acquisition of, or performance of new activities by, an operating subsidiary provided that the letter does not raise any significant, new, or complex issues that require review by the Washington Office;

(iv) Approval or disapproval of an increase in investment in bank premises to an amount exceeding capital stock; and

(v) Approval or disapproval of cash dividends pursuant to 12 U.S.C. 60(b).

(3) Each District Administrator is authorized to approve (but not disapprove) applications for the following:

(i) The establishment of domestic branches and seasonal agencies;

(ii) The establishment of CBCT branches;

(iii) Changes in locations of domestic branches and CBCT branches; and

(iv) Changes in locations of head offices for which applications must be filed, *i.e.*, changes to locations outside the city, town or village limits of a head office, and changes to unauthorized branch locations within the city, town or village limits of a head office;

Provided that all of the following requirements are satisfied for each application:

(A) Applicant bank is not the subject of special supervisory concern and has not been otherwise identified by the Multinational Banking, Special Projects, Customer and Community Programs, or Chief National Bank Examiner Divisions as a bank requiring their review and comment;

(B) There have been no substantive protests of the application;

(C) There is no known question concerning the legality of the proposal;

(D) In the case of a bank under the supervision of the Multinational Banking Division, the Deputy Comptroller for Multinational Banking has recommended unconditional approval;

(E) The District Administrator has not noted any significant matters that would make review by the Washington Office desirable; and

(F) Any additional requirements imposed by §§ 5.30, 5.31, 5.40, and 5.42 of this part have been satisfied.

(4) Each District Administrator is authorized to issue a notice of the Office's intent not to disapprove a proposed acquisition of control of a national bank if all of the following criteria are met:

(i) The bank is not the subject of special supervisory concern and has not been otherwise identified by the Multinational Banking, Special Projects, Customer and Community Programs, or Chief National Bank Examiner Divisions as a bank requiring their review and comment;

(ii) The District Administrator has not noted any significant matters that would make review by the Washington Office desirable; and

(iii) Any additional requirements imposed by section 5.50 of this part have been satisfied.

(5) Each District Administrator is authorized to approve (but not disapprove) applications to charter interim national banks if all of the following criteria are met:

(i) The bank is not the subject of special supervisory concern and has not been otherwise identified by the Multinational Banking, Special Projects, Customer and Community Programs, or Chief National Bank Examiner Departments/Divisions as a bank requiring their review and comment.

(ii) The District Administrator has not noted any significant matters that would make a review by the Washington Office desirable; and

(iii) Any additional requirements imposed by § 5.21 of this part have been satisfied.

(d) Where a Regional Administrator is the senior official in a geographic area, the Regional Administrator will exercise the authority delegated to the District Administrator and Deputy Comptroller under § 5.3(c) for those states within the geographic area.

Dated: September 28, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-32107 Filed 12-5-83; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0492]

Reserve Requirements of Depository Institutions; Regulation D; Reserve Requirement Ratios

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending 12 CFR Part 204 (Regulation D—Reserve Requirements of Depository Institutions) to adjust (1) the amount of transaction accounts subject to a reserve requirement ratio of three percent, as required by the reserve requirement ratio of three percent, as required by the Monetary Control Act of 1980 (Title I of Pub. L. 96-221; 12 U.S.C. 461(b)(2)((C)) and (2) the amount of reservable liabilities of each depository institution that is subject to a reserve requirement of zero percent, as required by the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320; 12 U.S.C. 461(b)(11)(B)). Under the amendment, each depository institution, Edge or agreement corporation, and U.S. branch or agency of a foreign bank will be subject to a three percent reserve ratio on the first $28.9 million of its net transaction accounts and to a 12 percent reserve ratio on amounts in excess of $28.9 million, and to a zero percent reserve requirement on $2.2 million of reservable liabilities. Currently, the first $26.3 million of a depository institution's net transaction accounts are subject to a three percent reserve ratio and $2.1 million of reservable liabilities are exempt from reserve requirements.

EFFECTIVE DATE: January 12, 1984. This is the beginning of the first reserve maintenance period to which the amendment applies.

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

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 ("MCA") requires each depository institution to maintain with the Federal Reserve System reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations. The initial reserve requirements imposed under the MCA were set at 3 percent for each depository institution's transaction accounts of $25 million or less and at 12 percent on transaction accounts above $25 million, which the Board is authorized to vary between 8 and 14 percent. The MCA further provides that the Board shall issue a regulation before December 31 of each year, adjusting for the next calendar year the total dollar amount of the transaction account tranche against which reserves must be maintained at a ratio of 3 percent. The increase in the tranche is to be 80 percent of the percentage increase in total transaction accounts for all depository institutions determined as of June 30 each year.

At present, the amount of the low reserve tranche on transaction accounts is $26.3 million. The growth in the total net transaction accounts of all depository institutions from June 30, 1982, to June 30, 1983, was 12.5 percent. In accordance with the these provisions of the MCA, the Board is amending Regulation D to increase the amount of the low reserve tranche for transaction accounts for 1983 to $28.9 million.

Section 411 of the Garn-St Germain Act, which was enacted on October 15, 1982, provides that $2 million of reservable liabilities [1] of each depository institution shall be subject to a zero percent reserve requirement. The Garn-St Germain Act permits each depository institution, in accordance with the rules and regulations of the Board, to designate the reservable liabilities to which this reserve requirement exemption is to apply. However, if transaction accounts are designed, only those that would otherwise be subject to a three percent reserve requirement (*i.e.*, transaction accounts within the low reserve requirement tranche) may be so designated. As a result, the effect of this amendment is to modify the low reserve tranche (which is $28.9 million, effective December 30, 1983) to apply a zero percent reserve requirement on the first $2 million of transaction accounts and a 3 percent reserve requirement on the remainder of the low reserve tranche, or to provide a zero percent reserve requirement tranche on nonpersonal time deposits with maturities or less than 1½ years or Eurocurrency liabilities, both of which are subject to a reserve requirement ratio of three percent.

The Garn-St Germain Act also provides that the Board shall issue a regulation before December 31 of each year, adjusting for the next calendar year the dollar amount of reservable liabilities exempt from reserve requirements. The change in the amount is to be made only if the total reservable liabilities held at all depository institutions increases from one year to the next. The percentage increase in the tranche is to be 80 percent of the percentage increase in total reservable liabilities of all depository institutions determined as of June 30 each year. The growth in total reservable liabilities of all depository institutions from June 30, 1982, to June 30, 1983, was 5.1 percent. In accordance with this provision of the Garn-St Germain Act, the Board is also amending Regulation D to increase the amount of the reserve requirement exemption to $2.2 million.

Reserve requirements will be reduced for the reserve maintenance week that begins on January 12, 1984, for all depository institutions. These amendments will be effective for the reserve computation period that begins on December 29, 1983, for a weekly reporter and December 15, 1983, for a depository institution that reports deposits and maintains reserves on a quarterly basis. In addition, all entities currently submitting Form FR 2900 will continue to submit reports to the Federal Reserve under current reporting procedures.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because the amendments involve adjustments prescribed by statute. Thus, the Board believes that notice and public participation is unnecessary and contrary to the public interest.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, and Reporting and recordkeeping requirements.

PART 204—[AMENDED]

Effective January 12, 1984, pursuant to the Board's authority under section 19 of the Federal Reserve Act, 12 U.S.C. 461 *et seq.*, 12 CFR Part 204 is amended by revising paragraph (a) of section 204.9 to read as follows:

§ 204.9 Reserve requirement ratios.

(a)(1) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations, and United States branches and agencies of foreign banks:

[1] The Garn-St Germain Act defines reservable liabilities as transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities as defined in section 19(b)(5) of the Federal Reserve Act.

Category	Reserve requirement
Net transaction accounts:	
$0 to $28.9 million	3 percent of amount.
Over $28.9 million	$867,000 plus 12 percent of amount over $28.9 million.
Nonpersonal time deposits:	
By original maturity (or notice period):	
Less than 1½ years	3 percent.
1½ years or more	0 percent.
Eurocurrency liabilities	3 percent.

(2) *Exemption from reserve requirements.* Each depository institution, Edge or Agreement Corporation, and U.S. branch or agency of a foreign bank is subject to a zero percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a)(1), nonpersonal time deposits, or Eurocurrency liabilities or any combination thereof not in excess of $2.2 million determined in accordance with § 204.3(a)(3) of this Part.

* * * * *

By order of the Board of Governors, November 30, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-32403 Filed 12-5-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 83-548]

Industry Conflicts of Interest

Correction

In FR Doc. 83-27111 beginning on page 45382 in the issue of Wednesday, October 5, 1983, make the following correction: On page 45386, in the second column, in amendment 5, the third complete paragraph, in the fourth line, "§ 563.45 and follows:" should have read "§ 563.44."

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-ANE-27; Amdt. 39-4768]

Airworthiness Directives; McCauley Accessory Division; 2A34C66 and E2A34C73 Constant Speed Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one-time inspection of the propeller blades for scratches or cracks in the retention threads on certain McCauley 2A34C66 and E2A34C73 series propellers. The AD is needed to prevent possible blade retention failure which could result in engine separation from the aircraft.

EFFECTIVE DATES: December 6, 1983.

Compliance schedule—As prescribed in body of AD. The Director of the Federal Register approved the incorporation by reference of certain publications in 14 CFR 39.13 effective on December 6, 1983.

ADDRESS: The applicable service bulletin(s) may be obtained from McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377.

A copy of the applicable service information and historical file on this AD is contained in the Rules Docket, Office of Regional Counsel, FAA, Attn: Rules Docket No. 83-ANE-27, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except Federal holidays, between 8:00 am and 4:30 pm.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Alpiser, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Ave., Des Plaines, Illinois 60018; telephone 312-694-7130.

SUPPLEMENTARY INFORMATION: There have been reports of propeller blade failure at the retention threads resulting in severe unbalance and possible engine separation from the aircraft. Investigation has revealed that a small scratch on the aluminum blade retention thread can cause initiation of a crack. A scratch can be caused by a sharp edge on the inside diameter of the mating threads in the steel ferrule. Since this condition is likely to exist or develop in other propellers of the same type design, an AD is being issued which requires a one-time inspection of the blade retention ferrule on certain McCauley Model 2A34C66/90AT-2 and E2A34C73/90AT-8 constant speed propellers.

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

List of Subjects in 14 CFR Part 39

Propellers, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

McCauley Accessory Division: Amendment 39-4768; Applies to certain McCauley Model 2A34C66/90AT-2 and E2A34C73/90AT-8 constant speed propellers with specific serial numbers listed in McCauley Service Bulletin No. 151 dated September 15, 1983, installed on but not limited to Cessna 180, 180A through 180J, Cessna 188, 188A, and 188B, Cessna P206, P206A through P206E, and Cessna 210E through 210L type aircraft certificated in any category.

Compliance is required as indicated unless already accomplished.

To prevent propeller blade failure, accomplish the following:

1. For propellers with 400 or more hours time in service since new, disassemble the propeller and inspect the retention threads on the blades and ferrules in accordance with McCauley Service Bulletin 151 dated September 15, 1983, within the next 25 hours time in service or within the next 30 days after the effective date of this AD, whichever occurs earlier.

2. For propellers with less than 400 hours time in service since new, disassemble the propeller and inspect the retention threads on the blades and ferrules in accordance with McCauley Service Bulletin 151 dated September 15, 1983, prior to accumulating 425 hours time in service.

3. If no scratch(es) or unairworthy conditions are observed, the blade retention threads must be dye penetrant inspected to confirm visual observations, before return to service.

4. Blades showing evidence of scratch(es) within the first four outboard threads or other unairworthy condition(s) must be replaced with an airworthy blade. Blades showing evidence of scratch(es) from the fifth thread and inboard, must be repaired before returning blade to service. Ferrules showing evidence of sharp edges on the threads must be repaired and replated in accordance with McCauley Service Bulletin 151 dated September 15, 1983, before returning to service.

5. A special flight permit may be issued in accordance with Federal Aviation Regulations 21.197 to operate the aircraft to a base where the AD can be accomplished.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from

the manufacturer may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377. These documents also may be examined at Rules Docket, Office of Regional Counsel, FAA, Attn: Rules Docket No. 83-ANE-27, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except Federal holidays, between 8:00 am and 4:30 pm.

This amendment becomes effective December 6, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); (49 U.S.C. 106(g) revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

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

Note.—The incorporation by reference provisions of this document were approved by the Director of the Federal Register on November 22, 1983, effective December 6, 1983. The referenced Bulletin is available at the Federal Register.

Issued in Burlington, Massachusetts, on November 3, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-32390 Filed 12-5-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Amdt. No. 65; Docket 41219; ER-1369]

Tariffs for Foreign Air Transportation; Credit Practices

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is removing the requirement for carriers to file their credit practices in tariffs for foreign air transportation. Since the Board does not prescribe the terms of credit plans or review them for sufficiency, placing them in tariffs provides no benefit to consumers, and can be detrimental since consumers generally are not aware of tariff contents.

DATES: Effective: January 5, 1984. Adopted: November 8, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Myers, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5205.

SUPPLEMENTARY INFORMATION: The Board's tariff rules (14 CFR Part 221) now require U.S. and foreign air carriers to place in their tariffs the terms of credit plans they make available for passengers and shippers. By a notice of proposed rulemaking (EDR-454, 48 FR 3998, January 28, 1983), the Board proposed to end that requirement and to prohibit carriers from filing those matters in tariffs. No comments were filed in response to the notice. The Board has decided to adopt the rule as proposed.

The credit matters now required to be filed include carrier billing practices and rules and late payment charges. These filings have not been comprehensive. The Board has not revised any filed credit terms, set any standards for the reasonableness of those terms, or effectively reviewed these tariffs for economic sufficiency.

As of January 1, 1983, under the Airline Deregulation Act, carriers no longer file tariffs for domestic passenger transportation. They have been exempt from tariff filing for domestic cargo transportation since 1979. On the other hand, U.S. and foreign air carriers must file tariffs for foreign air transportation.

This dual status creates the situation where consumer credit plans may be made part of the travel contract by operation of tariff law in foreign air transportation, but only by notice (or incorporation) for domestic air transportation without tariffs. Elimination of the requirement to file these matters in tariffs would prevent any confusion by consumers about the applicability of credit terms as part of their air contract.

The Board continues to have responsibility under the Consumer Credit Protection Act for supervising airline credit plans and practices. Implementation of that responsibility is in no way diminished by this rule. The Board, as part of its information collection and enforcement authority under the Federal Aviation Act, has sufficient means to supervise and take action on these matters.

The rule will prohibit the filing of these tariffs, for information or any other purpose. To do otherwise could mislead the public if the carriers attempted to incorporate those "filed" terms in their contracts of carriage.

Regulation Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act Pub. L. 96-354, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. The most significant number of small entities authorized to provide foreign air transportation are air taxi operators. These small carriers do not file tariffs now.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, and Handicapped.

PART 221—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 221, *Tariffs*, as follows:

1. The authority for Part 221 is:

Authority: Sec. 102, 204, 401, 402, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1374, 1381, 1386, 1481, 1482.

2. Paragraph (i) of § 221.38 is revised to read:

§ 221.38 Rules and regulations.

* * * * *

(i) *Carriers' extension of credit—passenger tariffs, property tariffs.* Air carriers and foreign air carriers shall not file tariffs that set forth charges, rules, regulations, or practices relating to the extension of credit for payment of charges applicable to the air transportation of persons or property.

§ 221.107a [Removed]

3. Section 221.107a is removed.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-32487 Filed 12-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 253

[Economic Regulation Amdt. No. 3 to Part 253; Docket: 41542; ER-1370]

Terms of Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB changes its rules that allow incorporation of airline passenger contract terms by reference on tickets for domestic travel and that set the notice for it. The rule allows the notice to be given under certain conditions at the beginning of the domestic flight for which a ticket is sold

abroad. The rule also states that air taxi operators will not be held to be incorporating terms merely because their flights are ticketed on standard stock that includes an incorporation statement. If they do not furnish notice according to this part, however, they may not claim the benefit of incorporated terms.

DATE: Effective: January 5, 1984. Adopted: November 8, 1983.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules and Legislation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board has established rules in 14 CFR Part 253 for the notice that airlines must give to passengers in order to incorporate travel contract terms by reference on the ticket for domestic flights. Those rules require that the notice of incorporated terms and a notice about terms affecting the value of the ticket be given with the ticket. The rules apply to all scheduled direct air carriers and to sales for domestic U.S. travel wherever sold, including foreign locations. Two practical problems arose, one for foreign ticket locations and another for air taxi operators. They both were the subject of a notice of proposed rulemaking by the Board (EDR-463, 48 FR 29707, June 28, 1983).

In EDR-463, the Board proposed that, under certain conditions, the notice concerning incorporated terms need not be given at foreign ticket locations. It also proposed that an air taxi operator not be considered to have incorporated terms by reference merely because its flight is ticketed on standard stock containing an incorporation statement. Two comments were filed in response to the notice, by the International Air Transport Association and the Regional Airline Association, both in general support of the proposal. The Board has decided to adopt the rule as proposed.

Foreign Ticket Locations

Part 253, among other things, requires that every scheduled direct air carrier ensure that each person or airline authorized to sell its tickets give the passenger the required notices with any ticket that incorporates terms by reference, wherever the ticket is sold. The Board, by Order 82-12-84, adopted December 16, 1982, waived that requirement, if certain conditions were met, for foreign ticket sales. The proposed rules included that waiver and those conditions, which were: (1) Passengers must be given notice that complies with Part 253 not later than check-in for travel in domestic air transportation, (2) the portion of the ticket for that domestic travel must be fully refundable without penalty, and (3) the passenger must be given conspicuous notice of that fact at the domestic check-in point.

The comments of the International Air Transport Association (IATA) support the Board's conclusions in EDR-463. The requirement that the incorporation notice be given with the ticket is impractical, if required at all foreign ticketing locations. IATA stated that it is not possible to devise a cost-effective method to ensure that the notice will be given to passengers for a domestic flight in every isolated foreign ticket sale. Further, as the carriers stated in their request for a waiver, only a very small percentage of tickets for domestic U.S. travel are likely to be sold abroad.

The Board also agrees with IATA that it would be in the best interests of international comity not to impose unreasonably high costs and burdens on the airlines for extraterritorial application of a requirement for domestic travel. In addition, it would be difficult for carriers to prove whether notice had been given in these unusual cases at far-flung world ticket locations. Under the final rule, application of the requirement will be within the United States. Airlines need only give the required notice at the time of check-in for the domestic flight. This will not be an unreasonable burden on those airlines or their foreign agents and interline partners.

This modified requirement will enable passengers to learn of the terms of the travel contract, and to cancel it, if they wish, before the flight begins. Further, since the passenger has already paid for the ticket, if it is cancelled because the terms of the contract are unacceptable, the airline will be required to refund the amount paid.

IATA commented that airlines have some practical problems with the refund aspect of the Board's rules. Some countries have imposed restrictions on transfers of their currency. For example, they may require that refunds be made in the local currency with which the original payment was made, or that such a refund be made only within that country. Another problem is credit plan restrictions concerning how refunds may be made. IATA has stated that airlines must make refunds within those guidelines.

The Board recognizes that these restrictions could in some cases render this refund option impracticable. It is a fundamental premise of this rule, however, that passengers may not be irrevocably bound to contract provisions of which they have no notice and no way to obtain it. It seems highly unlikely, in fact, that U.S. courts would accept such contracts as binding. To require passengers to return to a foreign country to receive a refund, or to require that they receive less than they paid because of foreign currency devaluations and restrictions, would nullify their right to avoid the contract. It should be remembered that the contracts in question are solely for domestic travel within the United States. This amendment is an attempt by the Board to allow for the occasional case where foreign travel agents wish to sell such transportation. In cases where credit plan requirements or their foreign government currency restrictions make this option impossible, they still have the reasonable option of obtaining the simple documents to give to customers that will bring them into full conformity with the rule.

Air Taxi Operators

Several small commuters had complained that the Board's notice requirement placed an unreasonable cost on them. The proposed rule included an amendment to Part 253, stating that a commuter was not required to provide its contract terms to ticket selling locations except to the extent that it wished to incorporate terms by reference. The commuter could not enforce incorporated terms, of course, if it did not provide those terms to ticket selling locations.

The Regional Airline Association (RAA) supported this change. The RAA suggested, however, a modification to the proposal. It contended that the rule change should apply to "small aircraft operators," not just to air taxi operators. The RAA believed that the Board did not intend to differentiate between certificated and non-certificated small aircraft operators.

There is a difference, however, between these two classes of carriers and their operations. Certificated carriers, even if operating small aircraft, are treated differently as a class. Their operations are more likely to be on a larger scale than commuter airlines or scheduled air taxi operators, and to be part of an interline network. This amendment to the rule is aimed especially at those small scheduled air taxi operators and commuter airlines whose interlining is only sporadic. One reason many small carriers obtain a certificate is to attract connecting interline passengers. For those reasons, the Board is not adopting RAA's suggestion.

The Board believes that the clarification adopted in the final rule will ease the burden and costs for air taxi operators, but still protect the passengers when using these small, local operators. For that reason and those set forth in EDR-463, the Board is adopting the rule as proposed. Under it, an air taxi operator will not be in violation if it does not furnish its rules to distant sales locations, but it will not be able, in such cases, to claim the benefit of any terms not included on or with the ticket.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 95-354, the Board certifies that none of the adopted changes has a significant economic impact on a substantial number of small entities. Although the responsibility for ensuring compliance is on the U.S. carrier providing the domestic transportation, a few of which may be small carriers, the amount of sales abroad for tickets on those small carriers at non-U.S. air carrier ticket offices would be insignificant. The interpretation concerning incorporation by small carriers is merely a codification of a prior interpretation, whose effect was to ease the burden of the rule on small carriers. The number of non-local sales for these operators is small.

List of Subjects in 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Law, and Travel.

PART 253—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 253, *Notice of Terms of Contracts of Carriage*, as follows:

1. The authority for Part 253 is:

Authority: Secs. 204, 404, 411, Pub. L. 85-726, as amended, 72 Stat. 743, 760, 769, 49 U.S.C. 1324, 1374, 1381.

2. The introduction text of § 253.5 is revised to read:

§ 253.5 Notice of incorporated terms.

Except as provided in § 253.8, each air carrier shall include on or with a ticket, or other written instrument given to a passenger, that embodies the contract of carriage and incorporates terms by reference in that contract, a conspicuous notice that—

* * * * *

3. A new § 253.8 is added to read:

§ 253.8 Qualifications to notice requirements.

(a) If notice is not provided in accordance with § 253.5 at a ticket sales location outside of the United States that is not a U.S. air carrier ticket office, the price paid for the portion of such ticket that is for interstate and overseas air transportation shall be refundable without penalty if the passenger refuses transportation by the carrier. Each air carrier shall ensure that passengers who have bought tickets at those locations without the notice required in § 253.5 are given that notice not later than check-in for the travel in interstate or overseas air transportation, and that conspicuous notice is included on or with the ticket stating that the price for that travel is refundable without penalty.

(b) An air taxi operator (including a commuter air carrier) not operating under Subpart I of Part 298 of this chapter shall not be considered to have incorporated terms by reference into its contract of carriage merely because a passenger has purchased a flight segment on that carrier that appears on ticket stock that contains a statement that terms have been incorporated by reference. However, such an air taxi operator may not claim the benefit as against the passenger of, and the passenger shall not be bound by, any contract term incorporated by reference if notice of the term has not been provided to the passenger in accordance with this part.

4. The Table of Contents is amended to add a new § 253.8 to read:

Sec.

* * * * *

253.8 Qualifications to notice requirements.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-32488 Filed 12-5-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 291

[ER-1367; Economic Regulation Amd. No. 14 to Part 291; Docket 41510]

Domestic Cargo Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB exempts intra-Alaska and intra-Hawaii cargo carriers from the requirement to file tariffs. The exemption will reduce costs and burden on those carriers and will make government pricing policies for that service consistent with the pro-competitive freedom granted 4 years ago to the cargo service in all other domestic transportation.

DATES: Effective January 5, 1984. Adopted: November 8, 1983.

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

SUPPLEMENTARY INFORMATION: Carriers providing intra-Alaska and intra-Hawaii cargo service are now required to file tariffs with the Board for its review. All other direct and indirect air carriers are exempt from that requirement for domestic cargo air transportation.

By EDR-462 (48 FR 26830, June 10, 1983), the Board proposed to extend that exemption to intra-Alaska and intra-Hawaii cargo service. Comments and reply comments, all in general support, were filed by: Alaska International Air, DHL Cargo, Mid-Pacific Airlines, Reeve Aleutian Airways, Transamerica Airlines, and Wien Air Alaska. The Board has decided to adopt the rule as proposed.

Since the cargo deregulation amendments were passed in 1977 (Pub. L. 95-163), intra-Alaska and intra-Hawaii cargo services have been treated differently with respect to tariff filings, among other things, from all other domestic direct and indirect air transportation.

As the Board stated in EDR-62, tariff filing (no matter how quickly the Board speeds the process) restricts a carrier's ability to move fast and effectively to respond to changes in the market, thus inhibiting competition. Further, tariffs have been replaced as the primary means of informing shippers of the carrier's prices and rules. Several of the comments stated that simplified rate sheets and other publications are now used by the carriers as the most cost-effective means of telling shippers how much a shipment would cost and under what conditions. Shippers will also have more direct input into their shipping contract with the carrier and a more local way to enforce those contracts in the courts.

The Board does not believe the tariff exempts in this rule will cause any substantive rise in prices for shippers. Passenger carriers were relieved of tariff filing by the Airline Deregulation Act (Pub. L. 95-504) as of January 1, 1983. In looking at the prices that have changed in small communities in Alaska since that time, the Board has found no substantial increase in those prices. Where there have been increases, they have generally occurred in markets without competition, as might be

expected. As competition enters those markets, fares generally decline. The Board has adopted a permissive entry policy for scheduled cargo service in Alaska. Order 80-9-149. The Board has stated that with respect to all-cargo authority in Alaska, application for that authority will be governed by the general policies and letter of the Airline Deregulation Act, including the requirement that interstate charter transportation within Alaska be authorized only as the public convenience and necessity requires, thus meeting Alaska International's concern. The Board believes that competition will continue to expand and serve as a governor on pricing policies. Entry in Hawaii has also been based on pro-competitive policies.

For those reasons, the Board believes that this exemption is in the public interest.

Alaska International Air (AIA) also stated that because of section 416(b)(5) of the Federal Aviation Act, which restricts the Board's exemption power with respect to Alaska service, the Board can exempt only those carriers holding authority from the Alaska transportation Commission (ATC). The Board does not interpret section 416(b)(5) to preclude it from exempting certificated carriers from the tariff-filing requirement of section 403. Rather, the Board believes that section 416(b)(5) modifies the statutory exemption granted to small-aircraft operators in section 416(b)(4) by making it inapplicable to carriers that do not hold ATC authority. H.R. Rep. No. 1779, 95th Cong., 2d Sess. 80 (1976). Further, AIA's interpretation would lead to the anomalous result that one set of carriers (those holding ATC authority) would be exempt from the tariff-filing requirement, while another set (those not holding ATC authority) would have to file tariffs for the same service on the same route.

Final Regulatory Flexibility Analysis

The discussion above is the Board's final regulatory flexibility analysis of the rule under the Regulatory Flexibility Act (5 U.S.C. 604). Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428, 202-673-5432, by referring to the "ER" number at the top of the document.

List of Subject in 14 CFR Part 291

Air carriers, Antitrust, Freight, Insurance, Reporting and Recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 291, *Domestic Cargo Transportation*, as follows:

PART 291—[AMENDED]

1. The authority for Part 291 is:

Authority: Secs. 102, 204, 401, 407, 408, 416, and 418, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 766, 767, 771; 91 Stat. 1284; 49 U.S.C. 1302, 1324, 1371, 1377, 1378, 1386, and 1388.

2. Section 291.31 is amended by revising § 291.31(a)(1) to read:

§ 291.31 Exemptions from the Act for direct air carriers.

(a) Each direct air carrier providing domestic cargo transportation is, with respect to such transportation, exempted from the following section or subsection of the Act only if and so long as it complies with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit it to conduct domestic transportation operations:

(1) Section 403.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-32481 Filed 12-5-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 291

[ER-1368; Amendment No. 15; Docket 41498]

Domestic Cargo Transportation; Exemption From Prohibition Against Unjust Discrimination

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB exempts domestic airlines providing cargo air transportation from the statutory prohibition against unjust discrimination in cargo service. The exemption places these carriers in the same position as other domestic carriers with respect to this provision. The exemption does not apply to intra-Alaska or intra-Hawaii cargo service. The rule also clarifies the present exemption for air carriers providing cargo transportation from the statutory provision requiring approval for acquisitions and control relationships.

DATES: Effective: January 5, 1984. Adopted: November 8, 1983.

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

SUPPLEMENTARY INFORMATION: In 14 CFR Part 291, the Board has granted broad exemptions to air carriers providing domestic cargo air transportation from the Federal Aviation Act. By a notice of proposed rulemaking (EDR-459, 48 FR 24922, June 3, 1983), the Board proposed to expand those exemptions to include the provision of the Act against unjust discrimination, and to clarify the present exemption concerning mergers and other control relationships. Comments were received from the National Industrial Transportation League, DHL Cargo, and the Flying Tiger Line. All comments generally supported the proposal. The Board has decided to adopt the rule as proposed.

Section 404(b) of the Act prohibits unjust discrimination by air carriers in providing air transportation. This provision expands the common law prohibition against discrimination by common carriers. Between 1977 and 1979 the Board, following Congress' intent, substantially deregulated domestic cargo air transportation. The Board, however, did not exempt carriers providing that transportation from section 404(b).

In 1978, Congress passed the Airline Deregulation Act. Among other things, that Act stated that, as of 1983, carriers providing domestic passenger transportation are no longer subject to section 404(b). The Board does not believe that domestic cargo carriers should any longer be subject to section 404(b). There is no reason to distinguish between cargo transportation and passenger transportation. Section 404(b) is a provision that was a part of a pervasive scheme of airline economic regulation. As Congress recognized in 1978, this provision is not needed in a deregulated environment. It can hinder price competition, if airlines and their customers are inhibited from arranging the best terms possible for air transportation.

The National Industrial Traffic League supported the consistent non-application of this provision to passenger and cargo transportation. The League commented, however, that this exemption should be continually monitored, since it could result in discriminatory freight claim and loss and damage policies by the carriers. Those policies of the carriers, however, must be contained in the shipper-carrier contract. A shipper is free to bargain on these policies or not to use a carrier because of them. Anticompetitive discrimination in the application of those policies by the carriers would, of course, be subject to court challenge under the antitrust laws.

DHL Cargo asked that the exemption's applicability be expanded to include intra-Hawaii cargo traffic. Because that expansion was not within the scope of the proposal, it cannot be adopted in this rule. The Board, however, is issuing a notice of proposed rulemaking contemporaneously, proposing to exempt carriers providing intra-Alaska and intra-Hawaii cargo service from section 404(b)

Antitrust Exemption

In EDR–459, the Board proposed to clarify its exemption for domestic cargo carriers from section 408 of the Act. That section requires carriers to obtain Board approval for certain control relationships, such as mergers. The Board has decided to adopt the clarification as proposed. The rule clarifies the exemption, by stating that all direct air carriers in air transportation, including all domestic or international passenger or cargo air service, are exempt from pre-approval of control relationship, except for transactions involving two or more air carriers providing any passenger service. The clarification is consistent with prior Board explanations of the exemption.

Prior to the clarification, the rule stated that the exemption did not apply to transactions "affecting passsenger air transportation." That language was always intended to mean a transaction involving two or more carriers authorized to provide passenger service. The change in this rule makes that clear.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that none of the proposed changes, if adopted, will have a significant economic impact on a substantial number of small entities. Small air carriers, such as air taxi operators, are already exempt from this provision. Because the exemption does not remove the common law discrimination jurisdiction, the effect on any small shippers should be small.

List of Subjects in 14 CFR Part 291

Air carriers, Antitrust, Freight, Insurance, and Reporting requirements.

PART 291—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 291, *Domestic Cargo Transportation*, as follows:

1. The authority for Part 291 is:

Authority: Secs. 204(a), 401, 403, 408, 412, and 416(b), Pub. L. 85–726, as amended, 72 Stat. 743, 754, 758, 767, 770, 771; 49 U.S.C. 1324, 1371, 1373, 1378, 1382, 1386.

2. Paragraphs (a)(2) and (b) of § 291.31 are revised to read:

§ 291.31 Exemptions from the Act for direct air carriers.

(a) * * *

(2) Section 404, except for (i) air transportation of property within the States of Alaska or Hawaii, and (ii) (for all domestic cargo transportation) the requirement to provide safe and adequate service, equipment, and facilities in connection with that transportation.

* * * * *

(b) Each direct air carrier providing air transportation of passengers or property is exempted from section 408(a) of the Act, except that the exemption in this paragraph—

(1) Does not include section 408(a)(4),

(2) Does not apply to transactions that involve two or more carriers each holding authority to provide passenger air service, and

(3) Is subject to the notification requirement of § 291.33.

3. Paragraph (a) of § 291.32 is revised to read:

§ 291.32 Exemptions from the Act for persons other than direct air carriers.

Air freight forwarders, common carriers that are not air carriers, and persons substantially engaged in the business of aeronautics other than as air carriers, are exempted from section 408(a) of the Act, except section 408(a)(4), for all transactions that do not involve two or more air carriers providing passenger air service.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-32488 Filed 12-5-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 136

[Docket No. 75P–0361]

Standards of Identity for Bakery Products; Final Decision

Correction

In FR Doc. 83–30119 beginning on page 51448 in the issue of Wednesday, November 9, 1983, make the following corrections:

1. On page 51449, column three, line one, "NBA" should read "ABA".

§ 136.115 [Amended]

2. On page 51453, column two, amendatory language to § 136.115, line one, "§ 136.15" should read § 136.115".

BILLING CODE 1505-01-M

21 CFR Part 145

[Docket No. 78P–0429]

Canned Pineapple; Amendment of Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the amendment of the definition of the style "chunks" in the standard of identity for canned pineapple to exclude the style "large cubes."

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun on November 1, 1983.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 2, 1983 (48 FR 39916), FDA issued a final regulation amending the U.S. standard of identity for canned pineapple (21 CFR 145.180(a)) to make the style designated as "large cubes" mutually exclusive of the style designated as "chunks" by revising the definition for chunks in § 145.180(a)(2)(vii) to state that the "chunks" style does not include "large cubes." Any person who would be adversely affected by the regulation could have, at any time on or before October 3, 1983, filed written objections to the final regulation and requested a public hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received.

List of Subjects in 21 CFR Part 145

Canned fruits, Food standards, Fruits.

PART 145—CANNED FRUITS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.62), notice is given that the effective date for compliance

with 21 CFR 145.180(a)(2)(vii) of the standard of identity for canned pineapple as amended in the **Federal Register** of September 2, 1983 (48 FR 39916), is July 1, 1985. Voluntary compliance may have begun on November 1, 1983.

Dated: November 25, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-32413 Filed 12-5-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7924]

Group-Term Life Insurance Uniform Premium Table

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations which revise the uniform premium table used to calculate the cost of group-term life insurance coverage provided to an employee by an employer. This revision is necessary because the existing uniform premium table is based on outdated mortality experience. These regulations provide guidance to employers who must use the uniform premium table to calculate the cost of group-term life insurance coverage in excess of $50,000 provided to and includible in the gross income of their employees.

DATE: The uniform premium table prescribed in this regulation is effective for group-term life insurance coverage provided after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner 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, 202-566-3935 not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 1983, the **Federal Register** published proposed amendments to the uniform premium rates used in determining the cost of group-term life insurance. In response to the notice of proposed rulemaking, 104 comments were received. On October 20, 1983, a public hearing was held.

Section 79 requires an employee to include in gross income the cost of group-term life insurance coverage in excess of $50,000. The cost of group-term life insurance is determined on the basis of uniform premiums (computed on the basis of five-year age brackets) prescribed by regulations. Regulations under section 79 published in 1966 provided the table of uniform premium rates currently in effect (Table 1 in § 1.79-3(d)(2)).

The proposed table was developed using 1975-1979 mortality experience as reported by the Society of Actuaries. The proposed table assumed that the pool of affected employees was 85 percent men and 15 percent women. The proposed table also assumed a 17.5 percent loading charge (that is, a charge in addition to mortality costs equal to 17.5 percent of the mortality costs).

In the notice of proposed rulemaking, the Service acknowledged that the assumptions used to develop the proposed table might not accurately reflect the cost of providing group-term life insurance. In particular, the notice solicited data on actual loading charges.

The Service has concluded that the cost of group-term life insurance should be calculated using the following assumptions:

(1) The most recent mortality experience available

(2) The gender mix of employees receiving group-term life insurance protection in excess of $50,000, and

(3) The weighted average of loading charges of employer-provided group-term life insurance coverage in excess of $50,000.

The comments and subsequent contacts with the insurance industry did not provide the data necessary to calculate precisely the cost of group-term life insurance. Rather than postpone any action until the necessary information could be collected, the Service has decided to publish a revised uniform table based on the following assumptions:

(1) The most recent mortality experience published by the Society of Actuaries (1975-1979 experience) updated to 1982 by extrapolation from past improvement in mortality experience. Although the Service does not intend to use extrapolation in future, it is persuaded that it is appropriate to extrapolate in this instance because the most recent mortality experience published by the Society of Actuaries is out of date. In addition, the validity of the extrapolation is corroborated by U.S. Public Health Service statistics. The Service understands that the Society of Actuaries has agreed to consider tabulating and publishing mortality experience more often, which will result in more current published mortality experience in the future.

(2) An 85 percent male/15 percent female gender mix. This assumption was used to develop the table proposed in the notice and the Service received no comments showing that for employees receiving coverage in excess of $50,000, this gender mix is inappropriate.

(3) A 10.5 percent loading charge. The 17.5 percent loading charge used to develop the proposed table approximates the arithmetic mean of loading charges on a policy-by-policy basis. Comments suggested that a more appropriate loading charge would be the arithmetic mean of loading charges determined on an insured-by-insured basis. The Service has concluded that neither approach is appropriate and that the loading charge ought to be a weighted average of the loading charges applicable to group term life insurance in excess of $50,000. Since the Service does not yet have sufficient data to compute the loading charge in this manner, the loading factor of the existing table (10.5 percent of total cost) has been retained in the revised table. The Service intends to collect the data necessary to determine the weighted average loading charge and to revise the table to reflect its findings.

This table is effective for group-term life insurance provided after December 31, 1982. This effective date may cause problems certain for data processors preparing W-2s for 1983, but it was evident from public comments that most employers believe that the benefits of a lower table outweigh any inconvenience that may result.

This table will remain in effect until the Service has sufficient data to change any of the assumptions upon which it is based.

Special Analyses

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although these regulations satisfied the notice and public comment procedures, the Internal Revenue Service has concluded that these regulations are interpretative and therefore no Regulatory Flexibility Analysis is required.

Drafting Information

The principal author of this regulation is Phoebe A. Mix of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, on matters of both substance and style.

List of Subjects in 26 CFR Parts 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, the following amendments to § 1.79–1 and § 1.79–3 [26 CFR Part 1] are adopted:

Paragraph 1. Paragraph (d)(7) of § 1.79–1 is revised to read as follows:

§ 1.79–1 Group-term life insurance—general rules.

* * * * *

(d) How much must an employee receiving permanent benefits include in income?

* * * * *

(7) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. An employer provides insurance to employee A under a policy that meets the requirements of this section. Under the policy; A, who is 47 years old, received $70,000 of group-term life insurance and elects to receive a permanent benefit under the policy. A pays $2 for each $1,000 of group-term life insurance through payroll deductions and the employer pays the remainder of the premium for the group-term life insurance. The employer also pays one-half of the premium specified in the policy for the permanent benefit. A pays the other one-half of the premium for the permanent benefit through payroll deductions. The policy specifies that the annual premium paid for the permanent benefit is $300. However, the amount of premium allocated to the permanent benefit by the formula in paragraph (d)(2) of this section is $350. A is a calendar year taxpayer, the policy year begins on January 1. In 1980, $200 is includible in A's income because of insurance provided by the employer. This amount is completed as follows:

(1) Cost of permanent benefits	$350
(2) Amounts considered paid by A for permanent benefits (⅓ × $300)	150
(3) Line (1) minus line (2)	200
(4) Cost of $70,000 of group-term life insurance under Table 1 of § 1.79–3	243.60
(5) Cost of $50,000 of group-term life insurance under Table 1 of § 1.79–3	174
(6) Cost of group-term life insurance in excess of $50,000 (line (4) minus line (5))	69.60
(7) Amount considered paid by A for group-term life insurance (70 × $2)	140
(8) Line (6) minus line (7) (but not less than 0)	0
(9) Amount includible in income (line (3) plus line (8))	200

Para. 2. Paragraph (d)(2) of § 1.79–3 is revised to read as follows:

§ 1.79–3 Determination of amount equal to cost of group-term life insurance.

* * * * *

(d) *The cost of the portion of the group-term life insurance on an employee's life.*

* * * * *

(2) The following table sets forth the cost of $1,000 of group-term life insurance provided after December 31, 1982, for 1 month computed on the basis of 5-year age brackets. See 26 CFR 1.79–3(d)(2) (revised as of April 1, 1983) for a table setting forth the cost of group-term life insurance provided before January 1, 1983. For purposes of Table 1, the age of the employee is his attained age on the last day of his taxable year. However, if an employee has attained an age greater than age 64, he shall be treated as if he were in the 5-year age bracket 60 to 64.

TABLE 1.—UNIFORM PREMIUMS FOR $1,000 OF GROUP-TERM LIFE INSURANCE PROTECTION

5-year age bracket	Cost per $1,000 of protection for 1-month period
Under 30	$0.08
30 to 34	.09
35 to 39	.11
40 to 44	.17
45 to 49	.29
50 to 54	.48
55 to 59	.75
60 to 64	1.17

* * * * *

This Treasury decision is issued under the authority contained in sections 79(c) and 7805 of the Internal Revenue Code of 1954 (78 Stat. 36, 26 U.S.C. 79(c); 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 1, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-32507 Filed 12-1-83; 5:04 p.m.]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR PART 0

Organization of the Department of Justice; Appendix to Subpart K—Redelegation of Authority to Deputy Assistant Attorneys General and Director of the Office of International Affairs Respecting Authority To Act as Central or Competent Authority Under Mutual Assistance Treaties in Criminal Matters; Corrections

AGENCY: Department of Justice, Criminal Division.

ACTION: Final rule; correction.

SUMMARY: On December 2, 1980 the Justice Department published in the **Federal Register** a directive redelegating to each of the Deputy Assistant Attorneys General and the Director of the Office of International Affairs of the Criminal Division the authority delegated to the Assistant Attorney General in charge of the Criminal Division under 28 CFR 0.64–1 to exercise all of the power and authority vested in the Attorney General under mutual assistance treaties in criminal matters with respect to processing requests for assistance under such Treaties. The instruction codifying Directive No. 81 in the Appendix to 28 CFR, Part O, Subpart K was inadvertently omitted. The authority delegation became effective November 18, 1980 and continues in effect. This document supplies necessary instructions to codify this directive in the CFR.

FOR FURTHER INFORMATION CONTACT: Philip T. White, Director, Office of International Affairs, Criminal Division, Department of Justice, Washington, D.C. 20530 (202–724–7600).

1. FR Doc. 80–37376 appearing on 45 FR 79758 on December 2, 1980 is corrected by adding the following instruction language immediately preceding the heading "Criminal Division":

Directive No. 81 is added to the Appendix in 28 CFR, Part O, Subpart K under the heading "Criminal Division."

2. For the information of the reader, the text of Directive No. 81 as printed at 45 FR 79758 on December 2, 1980 is set forth below:

Criminal Division

(Directive No. 81)

By virtue of the authority vested in me by § 0.64–1 of Title 28 of the Code of Federal Regulations, the authority

delegated to me by that section to exercise all of the power and authority vested in the Attorney General under mutual assistance treaties in criminal matters is hereby redelegated to each of the Deputy Assistant Attorneys General and to the Director of the Office of International Affairs, Criminal Division.

Dated: November 28, 1983.

Stephen S. Trott,

Assistant Attorney General, Criminal Division.

[FR Doc. 83-32402 Filed 12-5-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Parts 204 and 207

Danger Zone and Navigation Regulations; Chesapeake Bay, Potomac and Patuxent Rivers

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending the Navigation Regulations in Title 33 affecting the Chesapeake Bay, Potomac and Patuxent Rivers by amending certain sections where identified as obsolete, or unnecessary and editorial in nature.

This is part of the Corps of Engineers' ongoing program to improve its regulations.

EFFECTIVE DATE: January 5, 1984.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard at (202) 272-0199.

SUPPLEMENTARY INFORMATION: The Corps of Engineers has reviewed the regulations in 33 CFR Parts 204 and 207 affecting the Chesapeake Bay, Potomac and Patuxent Rivers with a view toward amending obsolete or unnecessary sections. On June 29, 1983, the Corps published the proposed amendments in the Notice of Proposed Rulemaking section of the **Federal Register** (48 FR 29884) with the comment period expiring on July 29, 1983. There were no comments received in response to the proposed rules. Accordingly, the amendments are promulgated as proposed. The following is a list of changed regulations:

1. *Part 204 Danger Zone Regulations.*

Section 204.30 Chesapeake Bay; United States Army Proving Ground Reservation, Aberdeen, Maryland

Add a new subparagraph (d)(4) to read as follows and renumber the existing subparagraph (d)(4) to become (d)(5). "A fleet of patrol boats will be positioned at the perimeter of the restricted water zone boundaries (except in extreme weather conditions such as gales or ice) during periods of testing to prevent unauthorized entry. If necessary to attract attention of another vessel about to penetrate the restricted area, the patrol boat may signal by a distinctive rotating blue and red light, public address system, siren, or by radio contact on ship-shore FM channel 16 and citizen band channel 12. Buoys will mark the restricted waters along the Chesapeake Bay perimeter during the period, normally 4 June through 1 October annually."

Change sub-paragraph (j) to: "Aberdeen Proving Ground Regulation (APGR) 210-10 will govern commercial fishing and crabbing and APGR 210-26 will govern recreation (non-commercial) fishing and crabbing."

Add new sub-Paragraph after sub-paragraph (k) as: "This section shall be enforced by the Commander, Aberdeen Proving Ground, and such agencies as he/she may designate."

Section 204.32 Chesapeake Bay, in the vicinity of Chesapeake Beach, Maryland; firing range, Naval Research Laboratory

Delete the following in paragraph (a)(2): "Bloody Bar Light"
Add in its place: "Bloody Point Bar Light"
Delete the following in paragraph (a)(2): "Buoy N 16 FF"
Add in its place: "Choptank River Approach Buoy 2"
Delete the following in paragraph (a)(4): "Buoy C 1"
Add in its place: "Chesapeake Beach Light 2"
Delete the following in paragraph (a)(4): "Buoy C 23"
Add in its place: "Plum Point Shoal Buoy 1"
Delete the following in paragraph (b)(3): "Director, Naval Research Laboratory"
Add in its place: "Commanding Officer, Naval Research Laboratory"
Delete the following in paragraph (b)(6): "The Commandant, Fifth Naval District"
Add in its place: "Commander, Naval Base, Norfolk, Virginia."

Section 204.36 Chesapeake Bay, in vicinity of Bloodsworth Island, Maryland; shore bombardment, air bombing, air strafing, and rocket firing area, U.S. Navy

Delete the following in paragraph (b)(3): "* * * and sunset, except that occasional night firing may be conducted between sunset * * *"

Delete the following in paragraph (b)(5): "* * * a tower off Okahanikan Point at latitude 38°11'45", longitude 76°05'35", and at night by a searchlight beam pointed into the sky."

Add in its place: "* * * a control tower on Adams Island at latitude 38°09'06", longitude 76°05'22", and at night by a white light on top of the control tower."

Add the following sentence to end of paragraph (b)(6): "As an additional warning to crabbing, fishing, and other small craft, and vessels, the control tower on Adams Island will broadcast firing intentions on citizens band radio using channels 11 and 12."

Delete the following in paragraph (b)(9): "* * * the Commandant, Fifth Naval District * * *"

Add in its place: "* * * Commander Naval Base, Norfolk, Virginia * * *"

Section 204.40 Potomac River

Delete all references to: "U.S. Naval Weapons Laboratory"
Add in its place; "Naval Surface Weapons Center"

Add to paragraph (a)(2)(iii): "The Naval Surface Weapons Center (Range Control) can be contacted by marine VHF radio (channel 16) or by telephone (703) 663-8791."

Section 204.41 Potomac River, Mattawoman Creek and Chicamuxen Creek; U.S. Naval Propellant Plant, Indian Head, Maryland

Delete all references to: "U.S. Naval Propellant Plant"
Add in its place: "U.S. Naval Ordnance Station"
Delete the following in paragraph (a): "* * * from the footbridge to the mouth of the creek;"
Add in its place: "* * * from the pilings remaining from the footbridge to the mouth of the creek;"

Section 204.42 Chesapeake Bay, Point Lookout to Cedar Point; aerial firing range and target areas, U.S. Naval Air Test Center, Patuxent River, Maryland

Delete the following in paragraph (a)(1): "* * * to Chesapeake Channel Buoy 50 (approximately latitude 37°59'25", longitude 76°10'54");"
Add in its place: "* * * to latitude 37°59'25", longitude 76°10'54";"

2. *Part 207 Navigation Regulations*

Section 207.125 Patuxent River, Maryland; restricted areas, U.S. Naval Air Test Center, Patuxent River, Maryland

Delete all references in paragraph (c) to: "Drum Point Light"
Add in its place: "Drum Point Light 2"
Delete all references in paragraph (c) to: "Point Patient Light"

Add in its place: "Patuxent River Light 8"

List of Subjects

33 CFR Part 204

Marine safety, Waterways.

33 CFR Part 207

Navigation (water), Waterways.

Note.—The Department of the Army has determined that this rule is not a major rule and is exempt from the general requirements of Executive Order 12291 in accordance with the exception provided military functions. The Department of the Army has also determined that these regulations would not have a significant economic impact on a substantial number of small entities as required by Pub. L. 96–354.

Dated: November 7, 1983.

William R. Gianelli,

Assistant Secretary of the Army (Civil Works).

Accordingly, the Department of the Army amends 33 CFR Parts 204 and 207 as set forth below.

PART 204—DANGER ZONE REGULATIONS

1. Section 204.30 is amended by revising paragraph (d) introductory test, (d)(4), (d)(5), and (j) to read as follows:

§ 204.30 Chesapeake Bay; United States Army Proving Ground Reservation, Aberdeen, Maryland.

* * * * *

(d) Entrance into restricted waters by the public.

* * * * *

(4) A fleet of patrol boats will be positioned at the perimeter of the restricted water zone boundaries (except in extreme weather conditions such as gales or ice) during periods of testing to prevent unauthorized entry. If necessary to attract attention of another vessel about to penetrate the restricted area, the patrol boat may operate a distinctive rotating blue and red light, public address system, sound a siren, or by radio contact on shipshore FM channel 16 and citizen band channel 12. Buoys will mark the restricted waters along the Chesapeake Bay perimeter during the period, normally 4 June through 1 October annually.

(5) *Authorized use.* Authorized use as used in this section is defined as fishing from a vessel, navigation using a vessel to traverse a water area or anchoring a vessel in a water area. Any person who touches any land, or docks or grounds a vessel, within the boundaries of Aberdeen Proving Ground, Maryland, is not using the area for an authorized use and is in violation of this regulation. Further, water skiing in the water area of Aberdeen Proving Ground is permitted as an authorized use when the water area is open for use by the general public providing that no water skier touches any land, either dry land (fast land) or subaqueous land and comes no closer then 200 meters from any shoreline. Further, if any person is in the water area of Aberdeen Proving Ground, Maryland, outside of any vessel (except for the purposes of water skiing as outlined above) including, but not limited to, swimming, scuba diving, or other purpose, that person is not using the water in an authorized manner and is in violation of this regulation.

* * * * *

(j) Aberdeen Proving Ground Regulations (APGR) 210–10 will govern commercial fishing and crabbing and APGR 210–26 will govern recreational (non-commercial) fishing and crabbing. This section shall be enforced by the Commander, Aberdeen Proving Ground, and such agencies as he/she may designate.

* * * * *

2. Section 204.32 is amended by revising paragraphs (a)(2), (a)(4), (b)(3) and (b)(6) to read as follows:

§ 204.32 Chesapeake Bay, in the vicinity of Chesapeake Beach, Maryland; firing range, Naval Research Laboratory.

(a) * * *

(2) *Area B.* The sector of a circle bounded by radii of 9,600 yards bearing 31° (to Bloody Point Bar Light) and 137°30′ (to Choptank River Approach Buoy 2), respectively, from the center at the southeast corner of building No. 3; excluding Area A.

* * * * *

(4) *Area D.* A roughly rectangular area bounded on the north by an east-west line through Chesapeake Beach Light 2 at the entrance channel to Fishing Creek; on the south by an east-west line through Plum Point Shoal Buoy 1 northeast from Breezy Point; on the east by the established fishing structure limit line; and on the west by the shore of Chesapeake Bay.

* * * * *

(b) * * *

(3) No fishing structures, other than those presently in established locations, which may be maintained, will be permitted to be established in Area D without specific permission from the Commanding Officer, Naval Research Laboratory.

* * * * *

(6) This section shall be enforced by the Commander, Naval Base, Norfolk, Virginia, and such agencies as he/she may designate.

3. Section 204.36 is amended by revising paragraphs (b)(3), (b)(5), and (b)(9) to read as follows:

§ 204.36 Chesapeake Bay, in vicinity of Bloodsworth Island, Maryland; shore bombardment, air bombing, air strafing, and rocket firing area, U.S. Navy.

* * * * *

(b) * * *

(3) Advance notice will be given of the dates and times of all firings in the danger zone and such notice will be published in the local "Notice to Mariners." The area will be in use intermittently throughout the year. On days when firing is conducted, firing will take place normally between sunrise and 12 midnight.

* * * * *

(5) Warning that ships are firing or soon will be firing in the danger zone will be indicated during daylight by a red flag prominently displayed from a control tower on Adams Island at latitude 38°09′06″, longitude 76°05′22″, and at night by a white light on top of the control tower. Warning that aircraft are firing or soon will be firing will be indicated by the aircraft patrolling the area. All persons, vessels, or other craft shall clear the area when these signals are displayed or when warned by patrol vessels or by aircraft employing the method of warning known as "buzzing" which consists of low flight by the airplane and repeated opening and closing of the throttle. As an additional warning to crabbing, fishing, and other small craft, and vessels, the control tower on Adams Island will broadcast firing intentions on citizens band radio using channels 11 and 12.

* * * * *

(9) The regulations in this section shall be enforced by the Commander, Naval Base, Norfolk, Virginia, and such agencies as he/she may designate.

4. Section 204.40 is amended by revising paragraphs (a) introductory text, (a)(1), (a)(2)(ii), and (a)(2)(iii) to read as follows:

§ 204.40 Potomac River.

(a) Naval Surface Weapons Center, Dahlgren, Virginia—(1) The danger zone—

(i) *Lower zone.* The entire portion of the lower Potomac River between a line from Point Lookout, Maryland, to Smith Point, Virginia, and a line from Buoy 14 (abreast of St. Clements Island) to a point near the northeast shore of Hollis Marsh at latitude 38°10′00″, longitude 76°45′23.5″. Long range and aerial machine gun firing is normally conducted in this zone at infrequent intervals.

(ii) *Middle Zone.* Beginning at the intersection of the Potomac River Bridge with the Virginia shore; thence to Light 33; thence to latitude 38°19'06", longitude 76°57'07" which point is about 3,300 yards east-southeast of Light 30; thence to Line of Fire Buoy O, about 1,150 yards southwesterly of Swan Point; thence to Line of Fire Buoy M, about 1,700 yards south of Potomac View; thence to Line of Fire Buoy K, about 1,400 yards southwesterly of the lower end of Cobb Island; thence to Buoy 14, abreast of St. Clements Island, thence southwesterly to a point near the northeast shore of Hollis Marsh at latitude 38°10'00", longitude 76°45'23.5"; thence northwesterly to Line of Fire Buoy J, about 3,000 yards off Popes Creek, Virginia; thence to Line of Fire Buoy L, about 3,600 yards off Church Point; thence to Line of Fire Buoy N, about 900 yards off Colonial Beach; thence to Line of Fire Buoy P., about 1,000 yards off Bluff Point; thence northwest to latitude 38°17'52", longitude 77°01'00", a point of the Virginia shore on property of Naval Surface Weapons Center, a distance of about 3,800 yards; thence northerly along the shore of the Naval Surface Weapons Center to Baber Point, latitude 38°18'42", longitude 77°01'45"; and thence north-northwest to latitude 38°19'09", longitude 77°02'08", a point on the Main Dock at the Naval Surface Weapons Center. Firing is normally conducted in this zone daily except Saturdays, Sundays, and national holidays.

(2) * * *

(ii) When firing is in progress, no fishing or oystering vessels shall operate within the danger zone affected unless so authorized by the Naval Surface Weapons Center's patrol boats. Oystering and fishing boats or other craft may cross the river in the danger zone only after they have reported to the patrol boat and received instructions as to when and where to cross. Deep-draft vessels using dredged channels and propelled by mechanical power at a speed greater than five miles per hour may proceed directly through the danger zones without restriction except when especially notified to the contrary. Unless instructed to the contrary by the patrol boat, small craft navigating up or down the Potomac River during firing hours shall proceed outside of the northeastern boundary of the Middle Danger Zone. All craft desiring to enter the Middle Danger Zone when proceeding in or out of Upper Machodoc Creek during firing hours will be instructed by the patrol boat; for those craft which desire to proceed in or out of Upper Machodoc Creek on a course between the western shore of the Potomac River and a line from the Main Dock of the Naval Surface Weapons Center to Line of Fire Buoy P, clearance will be granted to proceed upon request directed to the patrol boat.

(iii) The regulations in this section shall be enforced by the Commander, Naval Surface Weapons Center and such agencies as he/she may designate. Patrol boats, in the execution of their mission assigned herein, shall display a square red flag during daylight hours for purposes of identification; at night time, a 32 point red light shall be displayed at the mast head. The Naval Surface Weapons Center (Range Control) can be contacted by Marine VHF radio (Channel 16) or by telephone (703) 663-8791.

* * * * *

5. Section 204.41 amended by revising paragraphs (a) and (b)(7) to read as follows:

§ 204.41 Potomac River, Mattawoman Creek and Chicamuxen Creek; U.S. Naval Ordnance Station.

(a) *The danger zone.* Beginning at a point on the easterly shore of the Potomac River at latitude 38°36'00", longitude 77°11'00"; thence to latitude 38°34'30"; longitude 77°13'00"; thence to latitude 38°33'20", longitude 77°14'20"; thence to latitude 38°32'20", longitude 77°15'10"; thence to latitude 38°32'00", longitude 77°15'00"; thence to latitude 38°32'30", longitude 77°14'00"; thence to latitude 38°32'30", longitude 77°14'00"; thence upstream along the easterly shoreline of Chicamuxen Creek to its head thence downstream along the westerly shoreline of Chicamuxen Creek to the southernmost point of Stump Neck; thence northeasterly along the shoreline of Stump Neck to the mouth of Mattawoman Creek; thence along the southeasterly shore of Mattawoman Creek to the pilings remaining from the footbridge connecting the left bank of the creek to the Naval Ordnance Station; thence along the northwesterly shore of Mattawoman Creek from the pilings remaining from the footbridge to the mouth of the creek; thence in a northeasterly direction along the easterly shore of the Potomac River to the point of beginning.

(b) * * *

(7) The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Ordnance Station, Indian Head, Maryland.

6. Section 204.42 is amended by revising paragraph (a) to read as follows:

§ 204.42 Chesapeake Bay, Point Lookout to Cedar Point; aerial firing range and target areas, U.S. Naval Air Test Center, Patuxent River, Maryland.

(a) *Aerial firing range*—(1) *The danger zone.* The waters of Chesapeake Bay within an area described as follows: Beginning at the easternmost extremity of Cedar Point; thence easterly to the southern tip of Barren Island; thence southeasterly to latitude 38°01'15", longitude 76°05'33"; thence southwesterly to latitude 37°59'25", longitude 76°10'54"; thence northwesterly to latitude 38°02'20", longitude 76°17'26"; thence northerly to Point No Point Light; thence northwesterly to the shore at latitude 38°15'45"; thence northeasterly along the shore to the point of beginning. Aerial firing and dropping of nonexplosive ordnance will be conducted in this area throughout the year, Monday through Saturday, except national holidays.

* * * * *

PART 207—NAVIGATION REGULATIONS

Section 207.125 is amended by revising paragraph (c) to read as follows:

§ 207.125 Patuxent River, Maryland; restricted areas U.S. Naval Air Test Center, Patuxent River, Maryland.

* * * * *

(c) On occasions, seaplane landings and takeoffs will be practiced in the seadrome area north of the U.S. Naval Air Station, Patuxent River. This area includes those waters of the Patuxent River between Town Point and Hog Point shoreward of a line described as follows: Beginning at a point on the shore just west of Lewis Creek, bearing 161°30' true, 2,000 yards from Patuxent River Light 8; thence to a point bearing 130° true, 1,850 yards from Patuxent River Light 8; thence to a piont bearing 247°30' true, 3,650 yards from Drum Point Light 2; thence to point bearing 235° true, 2,060 yards from Drum Point Light 2; thence to a point bearing 129° true, 700 yards from Drum Point Light 2; thence to a point bearing 137° true, 1,060 yards from Drum Point Light 2; and thence to a point on the shore west of Harper Creek entrance, bearing 158°30' true, 1,900 yards from Drum Point Light 2.

* * * * *

Authority: 33 U.S.C. 1, 3.

[FR Doc. 83-32358 Filed 12-5-83; 8:45 am]

BILLING CODE 3710-92-M

PANAMA CANAL COMMISSION

35 CFR Part 111

Revised Shipping and Navigation Rules for the Panama Canal; Correction

AGENCY: Panama Canal Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the effective date contained in the final regulations implementing Revised Shipping and Navigation Rules for the Panama Canal which were published November 22, 1983 (48 FR 52703).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, (202) 724–0104, or Mr. John L. Haines, Jr., General Counsel, Panama Canal Commission, telephone in Balboa Heights, Republic of Panama, 011–507–52–7511.

Accordingly, the Panama Canal Commission is correcting 48 FR 52703 dated November 22, 1983 as follows:

"**EFFECTIVE DATE:** December 22, 1983" is corrected to read "**EFFECTIVE DATE:** April 1, 1984."

Dated: December 1, 1983.

Michael Rhode, Jr.,

Secretary.

[FR Doc. 83-32414 Filed 12-5-83; 8:45 am]

BILLING CODE 3640-04-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2333-5]

Approval and Promulgation of Air Quality Implementation Plans; Coke Batteries, Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today is publishing rulemaking pursuant to section 110 and Part D of the Clean Air Act (Act) on a revision to the Indiana State Implementation Plan (SIP) to control particulate matter emissions from coke batteries located in the State of Indiana. In this notice, EPA is specifying those portions of the revision to the Indiana SIP which it is approving and disapproving.

DATE: This action is effective as of January 5, 1984.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

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

United States Environmental Protection Agency, Region V, Regional Counsel, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Indiana State Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46206

It is recommended that you telephone Robert B. Miller at (312) 886–6031 before visiting the Region V office.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, (312) 886–6031.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

A. Indiana's Initial Part D Submittals and EPA Rulemaking Action

On June 26, 1979, the State of Indiana submitted to EPA proposed revisions of its SIP pursuant to Part D of the Clean Air Act (Act), as amended in 1977. The revision applied to areas of Indiana that had not attained the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2), Ozone (O_3), carbon monoxide (CO) and particulate matter (PM). These revisions included the coke battery regulation APC–9. As required by the Act, the purpose of these revisions was to implement measures for controlling the emissions of these pollutants in nonattainment areas and to demonstrate that these measures would provide for attainment of the NAAQS as expeditiously as practicable, but not later than December 31, 1982, for the primary standards or by December 31, 1987, under certain conditions, for ozone and carbon monoxide. The December 31, 1982 deadline which applied to all TSP implementation plans has passed. In addition, some of these revisions contained requirements to control emissions in areas which have either attained the NAAQS or have been designated as "unclassified," under Section 107 of the Act.

The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372), and are not reiterated in this notice. Supplements to the April 4, 1979 notice were published 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) discussing, among other things, additional criteria for SIP approval.

On March 27, 1980, in the context of proposed rulemaking, EPA announced receipt of the June 26, 1979 Indiana submittal, and the results of EPA's review of that submittal, and invited public comment (45 FR 20432). Excluded from the announcement, however, was EPA's review and proposed rulemaking for that portion of the Indiana submittal pertaining to particulate emissions from iron and steel sources, including coke battery sources.

B. Proposed Rulemaking on Iron and Steel Sources, Including Battery Sources

Indiana's initial strategy for controlling particulate emissions from iron and steel sources, including coke batteries, consisted of Indiana Regulation APC–3 (opacity), new Regulation APC–9 (coke batteries), and Regulation APC–23 (particulate matter). On July 3, 1980, EPA addressed iron and steel sources, proposing to disapprove revised Indiana Regulation APC–3, and new Regulation APC–9 (45 FR 45314). Since Regulation APC–23 as submitted by the State of Indiana on June 26, 1979, did not cover all of the nonattainment counties which contained iron and steel process sources, i.e., Lake, Marion and Vigo, EPA did not propose rulemaking for that regulation. In its **Federal Register** action, EPA discussed the history of the Indiana submission, the relevant Clean Air Act requirements and its applicable policies.

C. Additional Indiana SIP Submittals

On October 6, 1980, Indiana submitted another revised opacity rule, recodified as 325 IAC 5–1. This rule contained a number of new provisions, including opacity limits for non-stack sources of visible emissions. The State also submitted county-specific regulations as amendments to APC–23 (now recodified as 325 IAC 6–1) for Lake (325 IAC 6–1–10, 6–1–11), Marion (325 IAC 6–1–12) and Vigo Counties (325 IAC 6–1–13). Finally, Indiana made certain revisions on May 22, 1981, to coke battery rule APC–9, now recodified as Rule 325 IAC 11–3 (Rule 11–3). These revisions were submitted to EPA on August 27, 1981.

D. Reproposed Rulemaking on Non-Coke Battery Particulate Regulations

In light of these changes, EPA reproposed rulemaking on March 3, 1982 (47 FR 9019), concerning Indiana's particulate rules for sources other than coke batteries. At that time, the Agency also indicated its intention to take separate action on Rules 6–1–10.1 and 6–1–11.1.

E. Reproposed Rulemaking on Coke Battery Regulation

On June 1, 1982, (47 FR 23773), EPA reproposed rulemaking on rule 11–3, including its effect on the Indiana Part D particulate control strategies in Marion and Vigo Counties (325 IAC 6–1–12 and 6–1–13, respectively). With respect to Lake County, EPA announced that it was reviewing a particulate control strategy which had been prepared by the Lake County Attainment Task Force and submitted informally to EPA by the State of Indiana. Since this strategy was intended to be incorporated into 325 IAC 6–1 (325 IAC 6–1–10.1, 6–1–11.1) and would include coke battery mass emissions limitations which reflected the requirements of Rule 11–3, the June 1, 1982 rulemaking would therefore encompass coke batteries in Lake County.

F. Final Rulemaking on Non-Coke Battery Particulate Regulations

On July 16, 1982 (47 FR 30973), EPA took final rulemaking action on Indiana's particulate rules for non coke battery sources. EPA approved the complete Indiana Part D plan for Clark, Dearborn, Dubois, St. Joseph, Vanderburgh and Vigo Counties, subject to certain enumerated conditions. EPA did not fully approve the Marion County Part D plan because there did not exist an approved Part D strategy for the coke battery sources in Marion County. EPA took final rulemaking action to redesignate that portion of Vigo County which contained coke battery sources, from primary non-attainment to attainment, and deferred rulemaking on the coke battery emission limitations for Vigo County. EPA took no rulemaking action on the Lake County particulate SIP strategy.

G. Today's Final Rulemaking on Indiana Coke Battery Regulation 325 IAC 11–3

In today's rulemaking action, EPA is specifying those portions of Indiana's rule for coke battery sources, Rule 11–3, which it is approving, disapproving or deferring action on for coke battery sources in Indiana. Because of certain deficiencies in Rule 11–3, non-attainment areas in Indiana which contain coke battery sources (other than Porter County) will continue not to have an approved strategy for particulate matter and growth restrictions under § 110(a)(2)(I) will continue in these areas. EPA is taking no action in this notice on opacity regulation 325 IAC 5–1 as it relates to coke battery underfire stacks and precarbonization towers, as the Agency announced on July 16, 1982 (47 FR 30972) that it is temporarily deferring further rulemaking action on this regulation, pending modification of this rule by the State. Finally, EPA is taking no action today on Rule 6–1 as it applies to Lake County. Rulemaking on this strategy will occur in a subsequent **Federal Register** notice.

The following Table 1 represents a summary of EPA's final action on Rule 11–3:

TABLE 1

Rule	Identification of rule	EPA final action
Section 1	Applicability	Approval.
Section 2(a)	Pre-Carbonization Emissions	Deferred.
Section 2(b)	Charging Emissions	Approval.
Section 2(c)	Charging Port Lid Emissions	Approval.
Section 2(d)	Offtake Piping Emissions	Approval.
Section 2(e)	Gas Collector Main Emissions	Approval.
Section 2(f)	Oven Door Emissions	Approval of 2(f) as it applies to Porter and Vigo Counties. Disapproval [1] of 2(f) for remaining Indiana nonattainment areas.
Section 2(g)	Pushing Emissions	Disapproval. [1]
Section 2(h)	Quenching Emissions	Disapproval. [1]
Section 2(i)	Underfire Particulate and Sulfur Dioxide Emissions	Approval of 2(i) as it applies to particulate mass emissions for coke battery stacks in Marion, Porter and Vigo Counties. Deferred action on Lake County coke battery stacks.
Section 3	Coke Oven Identification	Approval.
Section 4(a)	Inspection Procedures for Charging	Approval.
Section 4(b)	Inspection Procedures for Topside Emissions	Approval.
Section 4(c)	Inspection Procedures for Oven Door Emissions	Approval.
Section 4(d)	Test Methods	Approval with the understanding.
Section 4(e)	Inspection Procedures for Gas Collector Main Emissions.	Approval.
Section 5	Compliance Schedules	Approval.
Section 6	SIP Revision	Approval.

[1] Federal SIP regulation APC–3, as federally approved on October 25, 1975 (40 FR 50036), and Federal SIP regulation 325 IAC 6–3 as federally approved on July 16, 1982 (47 FR 30972) will remain in effect. (On July 16, 1982 (47 FR 30972), EPA approved the recodification of Federal SIP Regulation APC–5 as 325 IAC 6–3, and also approved certain revisions to the original regulation).

Section IV of this notice includes an in-depth analysis of EPA's final action on each provision of Rule 11–3, as outlined in Table 1.

H. EPA's Continuity Policy

In general, a present federally approved SIP will remain applicable and enforceable until there is compliance with newly promulgated and federally approved regulations. Failure of a source to meet the present federally approved SIP regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reasons, the present SIP regulations will be applicable and enforceable. Thus, applicable provisions of existing Federal SIP regulations APC–3 and 325 IAC 6–3 remain in effect in Indiana non-attainment areas for which EPA is today disapproving sections 2(f), 2(g), and 2(h) of Rule 11–3. (See footnote, p. 6).

The major exception to this rule is in cases where there is a conflict between the requirements of new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the existing SIP regulations. Such exemptions will be reviewed and acted on by U.S. EPA either as part of these promulgated regulations or as a future SIP revision.

II. Summary of Indiana's Approach To Control PM Emissions From Coke Batteries

A. Part D Requirements of the Clean Air Act

Part D of the Clean Air Act requires PM SIPs to include strategies and regulations adequate to insure attainment of the primary NAAQS as expeditiously as practicable but not later than December 31, 1982, and, in the interim, to provide reasonable further progress toward attainment through the application of reasonably available control technology (RACT) on stationary sources. EPA has defined RACT in the July 3, 1980 **Federal Register** (45 FR 45314) proposed rulemaking on Indiana regulations for the iron and steel industry, and refers interested persons to this notice. In that notice EPA has also clarified its interpretation of the burden placed upon States, pursuant to Section 172 of the Act, to submit regulations which represent RACT.

B. Indiana's Coke Battery Control Strategy

To satisfy its Part D obligations under the Act, and to control all coke battery sources in the State, Indiana has proposed a control strategy which consists essentially of Rule 325 IAC 11–3, formerly APC–9. This regulation establishes emission limitations and inspection procedures for all coke oven batteries for which construction or modification commenced prior to June 19, 1979, except where more restrictive new source requirements apply. For those batteries commencing construction or modification on or after this date, the State intends to establish the appropriate emission limits as conditions of construction and operating permits issued under Article 2 of its rules.

Rule 325 IAC 11–3 specifically sets out emission limitations and compliance timetables for the following coke battery emission points: Charging, charge port lids, offtake piping, gas collector mains, oven doors, pushing and quenching. The rule further provides inspection procedures and test methodologies to determine compliance. In regard to pre-carbonization emissions, Section 2(a) of the rule provides that particulate emissions from pre-carbonization towers shall be governed by 325 IAC 6–1, and that visible emissions from these sources will be controlled by 325 IAC 5–1. Similarly, Section 2(i) of the rule specifies that particulate emissions from coke battery underfire stacks are to be governed by the limitations determined pursuant to 325 IAC 6–2 for attainment and unclassified counties, and 325 IAC 6–1, for non-attainment counties. Visible emissions from underfire stacks are controlled by 325 IAC 5–1.

C. Criteria by Which EPA Reviewed Rule 325 IAC 11–3

Rule 11–3, as formally submitted to U.S. EPA on August, 27, 1981, is intended to apply to all coke battery sources, regardless of the air quality designation of the area in which the battery is located. As explained below, EPA has evaluated Rule 11–3 as it applies to coke battery sources in Lake and Marion Counties in terms of Part D. RACT requirements and Section 110; Porter and Vigo Counties have been evaluated only in terms of Section 110.

1. Lake and Marion Counties

Lake and Marion Counties are designated in 40 CFR 81.315 (1982) as nonattainment for both primary and secondary particulate NAAQS. Regulations for these counties must consequently meet the requirements of both Part D and Section 110 of the Act.

2. Porter County

On August 18, 1982, 47 FR 35965, that portion of northern Porter County which contains the County's only coke battery sources, was redesignated from unclassifiable to nonattainment for particulate matter (PM), based on monitoring data showing violations of the NAAQS. This rulemaking became effective on September 17, 1982. In the August 18, 1982 rulemaking, EPA explained that regulations for Porter County would be required to meet Part D of the Act on a specified schedule which extends beyond the December 31, 1982 deadline in the Clean Air Act. Therefore, for the purposes of today's rulemaking, EPA will be judging the provisions of 11–3 as it applies to Porter County only by the criteria enumerated in section 110 of the Act, including the requirement to attain the NAAQS as expeditiously as practicable. The deadline for submitting provisions that meet the Part D requirements has not yet passed.

EPA reiterates that the State is now under an obligation to devise a Part D plan for Porter County. The State must evaluate EPA's RACT analysis of the various provisions of 11–3 as outlined in the technical section IV of this notice. Where EPA today notes RACT deficiencies in 11–3 and disapproves portions of 11–3, (for Marion and Vigo Counties) the State, in accordance with Part D of the Act, must submit corresponding new regulations for Porter County which represent a RACT level of control. The August 18, 1982 rulemaking required that these revisions be submitted no later than September 17, 1983, and that they provide that compliance be achieved as expeditiously as practicable, but in no event later than five years from the date of redesignation. In the interim, the pertinent portions of 11–3 will continue to apply in Porter County, including the associated compliance schedules specified in the regulation.

In those cases where EPA today disapproves portions of this regulation because of enforceability problems, the current SIP regulations, APC–3, as federally approved on October 28, 1975 (40 FR 50033), and 325 IAC 6–3, as federally approved on July 16, 1982 (47 FR 30972), will remain in effect and enforceable in Porter County. (On July 16, 1982 (47 FR 30972), EPA approved the recodification of Federal SIP Regulation APC–5 as 325 IAC 6–3, and approved certain revisions to this regulation).

3. Vigo County

On July 16, 1982 (47 FR 30972), that portion of Vigo County which contains the County's only coke battery sources was redesignated from primary nonattainment to attainment for particulate matter (PM), based on monitoring data showing no violations of the NAAQS. This rulemaking became effective on July 16, 1982. Coke battery regulations for Vigo County are only required, therefore, to meet the requirements of Section 110 of the Clean Air Act.

D. Public Comments Received on Indiana's Coke Battery Strategy

In this notice, EPA responds to all public comments which have been received on its proposed rulemaking of July 3, 1980 on Indiana Regulation APC–9 (45 FR 45314), and on its proposed rulemaking of June 1, 1982, on 325 IAC 11–3 (47 FR 23773). Voluminous comments have been received from Rooks, Pitts, Fullagar and Poust, as counsel for the United States Steel Corporation, the Jones & Laughlin Steel Corporation and the Youngstown Sheet and Tube Corporation, incorporating comments from the American Iron and Steel Institute (AISI); from Bethlehem Steel; from Inland Steel; from the law firm of Barnes & Thornburg; from Citizens for a Better Environment; and from the State of Indiana. These comments addressed the legal basis for EPA's proposed actions as well as the technical rationale for EPA's proposed actions. Accordingly, EPA will address legal and policy comments in Section III, entitled, "Comments Addressed to EPA Policy." Comments on EPA's technical basis for its rulemaking actions will be discussed in Section IV, entitled "Comments and Action on Proposed Rule 325 IAC 11–3."

III. Comments Addressed to EPA Policy

The following represent comments received from the public by EPA, and EPA's responses:

Comment: EPA's utilization of its "relaxation", "revocation", and "continuity" policies as criteria for approving Part D Plan revisions is unlawful. Further, if the revisions require attainment of the air quality standards by the statutorily mandated date, a State is free to choose any strategy to attain the standards, which may include the revocation or relaxation of pre-existing regulations.

Response: As discussed in the April 4, 1979 General Preamble to Part D rulemaking at 44 FR 20373–30274, and in the July 3, 1980 reproposal, if existing requirements could be relaxed or

superseded pending compliance with a new requirement, recalcitrant sources could avoid obligations established under the Act before enactment of the 1977 Amendments. These Amendments were intended to allow additional time for additional controls to be applied, but not to permit a relaxation of existing requirements. Thus, present emission control requirements were to be retained in order to prevent the operation of facilities without controls, or with less efficient controls while sources moved toward compliance with, or challenged, the new requirements. Furthermore, contrary to one of the commentator's contentions, the continuity policy does not freeze obsolete rules into a state plan because the existing rule remains in effect only until the source comes into compliance with the new rule.

As outlined in the General Preamble, there are certain exceptions to the policies discussed above. The exception most pertinent to today's action is that a State may submit a revocation of an existing requirement if the existing requirement conflicts with a new, more stringent requirement, making it highly impractical for a source to comply with the old requirement. The commentators do not contend that there is such a conflict between the existing requirments and the new requirements in Indiana.

Under the commentators' analysis, a submitted strategy could conceivably permit a State to delay the effective date of compliance with all air pollution regulations until the last permissible statutory attainment date of December 31, 1982. This, however, is plainly inconsistent with the Part D requirements for reasonable further progress and the general requirement for attainment as expeditiously as practicable. In enacting the 1977 Amendments to the Clean Air Act, Congress did not intend the 1982 attainment date to authorize relaxations or delays in compliance with existing requirements. As later explained by Representative Rogers:

> The first suggestion was that the Act be amended to make clear that a revised attainment date under Section 172(a) would not be the basis for delaying the effective date of the emission limit for any source in effect prior to the adoption and submission of a plan revision under Part D. This Amendment was deemed unnecessary. Delays or relaxations of emission limits were not generally authorized or intended under Part D. (123 Cong. Rec. H 11958 daily ed. Nov. 1, 1977) (Remarks of Representative Rogers).

In sum, the policies to which the commentator objects are intended to assure that, pending compliance with the revised SIP, the Part D revisions do not interfere with reasonable further progress toward attainment and maintenance of ambient air quality standards by relaxing or revoking existing state requirements. EPA's disapproval of Indiana Plan revisions which relaxed or revoked existing Indiana regulations is thus consistent with the Act.

Comment: EPA has no right to consider "enforceability" by reviewing State regulations for clarity and specificity.

Response: Section 110 of the Act generally requires that a plan be enforceable. See Sections 110(a)(1), (a)(2)(D). In determining whether a plan provision is enforceable, emission limitations and other requirements must be reviewed for clarity and specificity. Emission limitations and other requirements must be well defined, and must clearly state which sources and processes are being regulated, when the required actions are to be taken and by whom, and what constitutes compliance. In addition, the plan provision must specify any necessary test method by which compliance is to be determined and, if the provision requires compliance at a future date, it must contain an adequate schedule for compliance. See 44 FR 20372, April 4, 1979. The requirements for enforceability would not be satisfied by unclear or imprecise plan provisions. Vagueness as to regulatory requirements or applicability would make if difficult, if not impossible, to enforce regulations against specific sources.

Comment: Commentators have challenged EPA's use of certain technical support documents as a basis for its proposed rulemaking actions. They contend that EPA intends to impose its assessments of what constitutes RACT, as outlined in the technical support documents, upon the States without the accompanying procedural due process safeguards, such as public hearings on the data, which the commentators contend are regularly imposed by formal rulemaking requirements under the Clean Air Act and the Administrative Procedure Act.

They argue that RACT is defined in 40 CFR 51.1(o), and should be updated, in if necessary, through rulemaking, providing opportunity for public comment and judicial review. They further contend that the Agency is improperly using the SIP approval process to coerce the State of Indiana into adopting EPA's standards.

Response: This argument rests predominantly upon the fact that in its Notice of Proposed Rulemaking of July 3, 1980, 45 FR 45314, EPA stated:

> Where a state proposes regulations which are not technically supported by U.S. EPA's data, the State must submit adequate data supporting its proposal as representing RACT.

EPA believes that commentators have misunderstood EPA's goal in developing a technical support docket. Under Section 172 of the Clean Air Act, each State is to develop a revised Plan for designated nonattainment areas. Each Plan must include sufficient information for EPA to evaluate whether such revised Plan meets the requirements of Section 172, including the requirement to adopt reasonably available control technology. See Section 172(b)(3). To review State submitted Part D Plan revisions, EPA has assembled a docket which contains the legal and technical rationales for agency action on proposed Part D Plan revisions. The data accumulated in the technical support portion of the docket to which commentators refer, consists of comprehensive iron and steel emissions data from facilities across the country. This data is valuable in analyzing the levels of emission control achievable for specific categories of sources within the iron and steel industry and is also useful in evaluating case-by-case RACT limitations in the event a State submits limitations which consider technological and economic feasibility.

In contrast to commentators' contentions, EPA does not suggest that emission limitations and standards reflected in these documents constitute absolute and mandatory RACT standards for the iron and steel industry. In the same July 3, 1980, Notice of Proposed Rulemaking referred to by the commentators, EPA explained its understanding of the Part D revision process and the uses to which it would put the technical support documents:

> U.S. EPA believes the burden of demonstrating that a regulation represents RACT rests on the State. In reviewing a proposed SIP (Plan) revision to determine its adequacy, EPA can verify independently that the provisions in the State plan represent RACT. Although EPA has not specified uniform RACT standards for the iron and steel industry, it has collected data which reflects the emission limitations achieved by various iron and steel sources applying control technology. Where a State proposes regulations which are not technically supported by EPA's data, the State must submit adequate data supporting its proposal as RACT.

The intention is that the State must submit technical justification to support RACT determinations. EPA then considers the information submitted by the State, together with the data in the technical support docket and any public

comments received to determine whether the specific regulatory revision satisfies the requirements of the Act for RACT. EPA has no intention of coercing a State into accepting a particular standard or technology.

EPA further clarified its position regarding the technical support documents in a September 8, 1980, Federal Register Notice of Availability of a Guidance Document, 45 FR 59198:

> By gathering and evaluating the available data, U.S. EPA does not intend to set uniform RACT standards which the States are required to adopt, and the summary should not be so construed. The limitations and standards summarized in the table should not be regarded as categorical RACT requirements for iron and steel sources, but solely as guidance which EPA will utilize as the starting point in its review and evaluation of a State's submission. The State may develop its RACT requirements independently of EPA's guidance. * * * EPA * * * will carefully review and evaluate in detail the State's analysis to determine whether it in fact supports the State's proposed RACT requirements.

In the instant case, EPA notes that the State of Indiana submitted no technical documentation in support of its proposed standards. If such data had been submitted, consistent with the position announced in the Notice of Availability, EPA would naturally have given great weight to this information. Because Indiana did not submit such data, EPA relied heavily on its internally developed guidance docket. In a similar situation involving EPA's Part D rulemaking on the State of Michigan's iron and steel regulations, the U.S. Court of Appeals for the 6th Circuit in *National Steel Corporation, Great Lakes Division* v. *Gorsuch*, 700 F. 2d 314, 323 (6th Cir. 1983), upheld EPA's reliance on its internally-developed technical support documents. The Court held that:

> The EPA can only be in a position to fulfill its statutory obligations if it has some degree of expertise, or some way of getting that expertise, regarding RACT in each relevant industry. In the instant case, Michigan did not supply detailed information in support of its RACT determinations. Where a state fails to supply the information necessary for a proper evaluation by the EPA, the EPA must be free to use its own acquired knowledge. In such circumstances, we readily find that the EPA has neither overstepped the bounds of its authority nor acted unreasonably.

In its review and action on Indiana's coke battery regulations, EPA has followed all applicable procedural requirements. While the Clean Air Act specifies that U.S. EPA is required to pursue formal rulemaking pursuant to Section 307(d) for certain actions, no such requirement applies to agency action on state submitted implementation plan revisions. Neither is the agency required by the Act to establish a rulemaking docket for its action in reviewing Part D plan revision submittals.

Procedural requirements for rulemaking such as agency action on State submitted plan revisions appear in the Administrative Procedure Act (APA), 5 U.S.C. 553(b). This provision requires publication of notice of the proposed rulemaking, including a statement of the time, place and nature of the proceedings, reference to the legal authority under which the rule is proposed, and either the terms or substance of the proposed rule or a description of the subjects and issues involved. In addition, the Agency is required to give interested persons an opportunity to participate in the rulemaking through submission of written data, views or arguments. The form and content of the several **Federal Register** notices pertaining to this rulemaking indicate that EPA has followed these procedures here.

Some comments asserted the necessity of revising 40 CFR Part 51.1(o), Appendix B of 40 CFR 51.1(o), entitled "Examples of Emission Limitations Attainable with Reasonably Available Technology". This appendix represents, by its own terms, examples and guidance only, and does not impose fixed RACT requirements. Appendix B, issued in 1971, states that it "sets forth emission limitations which, in the Administrator's judgment, are attainable through the application of reasonable (sic) available emission control technology." In other words, these referred to the state of the art as it existed in 1971, nearly six years before the problem of widespread nonattainment of NAAQS prompted Congress to enact Part D. Indeed, in its current review of Part 51 for possible revision, EPA is considering proposing to delete Appendix B because it is no longer technically current. Clearly, neither § 51.1(o) nor Appendix B was intended to prevent more effective technologies which evolved for particular industries and particular processes from being incorporated into RACT requirements.

In short, EPA is not bound in 1982 to accept the controls and levels of control mentioned in the general 1971 RACT examples as representing current RACT requirements for all processes and all industries, nor to update Appendix B to substantiate its RACT analyses.

Comment: EPA's definition of RACT includes considerations of technological and economic feasibility. The technical docket appears to include information on technological feasibility, but it presents little or no data on economic feasibility.

Response: The data in the technical docket includes comprehensive iron and steel emissions data representing actual control levels achieved in facilities across the country. Such levels consistently achieved in actual use can, as a general matter, be presumed to be economically achievable. EPA is not aware of specific supporting data in the record, as presented either by the State of Indiana or any of the commentators, that would lead to a reasoned conclusion that Indiana coke batteries should be distinguished economically, geographically, technically, or otherwise from those sources identified in EPA's technical guidance docket.

One commentator also complained that EPA was not reviewing the State's proposals with the broad deference commentators read into EPA's early guidance. That guidance was intended (and continues) to permit the State to tailor regulations to the specific characteristic of its industrial community. However, it was not an invitation to ignore the large body of data from numerous states in which coke batteries are located, demonstrating achievable control limitations.

The approach taken was to compare the State's proposed requirements with the known performance of better control systems in place at a broad range of facilities in many locations. Though a reference point is established, EPA's approach includes the flexibility to analyze economic or sociological factors which support variations from the conclusions it has reached. In other words, EPA will consider any State proposal differing from that based on its purely technical analysis where the State has articulated the site specific considerations justifying a different conclusion. Here, however, the State has failed to articulate such considerations.

Comment: The RACT technical docket on which EPA relies is not part of the State hearing record, and was not made available to the State until after Indiana regulations were promulgated. Therefore, this docket should not be considered and EPA's rulemaking actions should be based exclusively on the State hearing records, including the testimony of EPA representatives at the State public hearings.

Response: In assigning EPA the task of reviewing SIP revisions, Congress plainly intended that EPA make an independent, neutral and informal assessment of the revisions. In reviewing the adequacy of the submittals here, EPA must be free

therefore to draw on its own expertise in determining if each submittal is approvable. To this end, the RACT technical docket was compiled to permit EPA to evaluate proposed Part D revisions, such as those proposed by Indiana, in terms of Section 172 of the Act.

Even before Indiana formally submitted its original coke battery regulation in 1979, EPA was extensively involved in reviewing and commenting on the approvability of that regulation. As the Agency reviewed draft and final iron and steel regulations for Indiana and other States, it became clear that available technical data should be assembled to facilitate EPA's review, and to technically support its rulemaking actions.

In Indiana, the dissemination of technical iron and steel data to the State was accomplished on several occasions prior to the publication in the **Federal Register** of the notice of availability of the September 8, 1980 RACT guidance documents. As an example, on April 24, 1979, two months before Indiana submitted its coke battery rule to U.S. EPA for review, and prior to the May 23, 1979 public hearing on APC–9, EPA transmitted to the State approximately 750 pages of technical support for RACT for iron and steel sources, including testimony at public hearings, visible and mass emission limitation test data, relevant information from topical literature and special studies. The compilation of data made available to the public in September of 1980 merely represented the latest updating of the Agency's regular internal evaluation of the achievable levels of control for the iron and steel industry.

The summary of emission limitations in the technical guidance document does not establish regulatory requirements. Rather, as stated above, it represents guidance for use in the development and evaluation of State Implementation Plan provisions for iron and steel sources in the context of the RACT requirements of the Act. A State may develop its RACT requirements independently of EPA's guidance. EPA will approve any submitted RACT requirement that the State shows will satisfy the requirements of the Act for RACT, based on the economic and technical circumstances of the particular sources being regulated.

Furthermore, contrary to the commentator's contention, EPA has not violated any procedural requirement of either the Clean Air Act or the Administrative Procedure Act in relying upon this information which is a part of the rulemaking docket on this action. There is no requirement in either Act which restricts EPA's analysis to the technical support which comprised the State hearing record. The only pertinent requirement which is imposed upon the Agency is that members of the public must have access to the materials upon which the Agency relied in its rulemaking.

In this case, while the technical support docket was not available until September 8, 1980, several months after EPA's initial rulemaking on the coke battery regulation, EPA extended the public comment period on the coke battery notice until October 17, 1980, to provide additional time for interested parties to review this data. In addition, sources in Indiana have had ample opportunity to publicly comment on the September 1980 RACT guidance. In the first instance, Indiana revised its coke oven battery rule on May 22, 1981, and interested sources had the chance to participate in a public hearing on January 26, 1981, four months after the RACT guidance became available. In the second case, as a result of the submittal by Indiana of a revision to its coke battery rule, EPA decided to repropose rulemaking action on this rule, and published a reproposal on June 1, 1982. Comments were solicited on this notice and several commentators took the opportunity to supplement previous comments or submit new comments.

Comment: EPA improperly failed to explain how the material was chosen for inclusion in the technical support portion of the rulemaking docket, to articulate the specific data in the technical support portion of the rulemaking docket upon which EPA relied for its selection of emission limitations in the summary table, and to provide an explanation of why these limitations were determined to be "generally" achievable in the steel industry. It is further alleged that much of the support documentation is unreliable data in that it represents information derived from pilot processes, special emission testing procedures other than standard methods, tests on brand new equipment, etc., rather than from facilities operating under normal production conditions. Finally, several commentators have suggested that EPA apparently excluded certain relevant data.

Response: On September 8, 1980, EPA announced that RACT guidance for the iron and steel industry was available for public review. EPA indicated that it had collected and evaluated a voluminous amount of data that reflected levels of performance achieved by various iron and steel sources applying control technology believed by the Agency to be generally available on a retrofit basis. In general, determinations of RACT—level technology were made on the basis of known performance of the better control systems in place at many facilities in various locations, taking into account economic and technological feasibility.

Although EPA acknowledges that the technical support portion of the rulemaking docket is voluminous, EPA has organized the docket in such a manner as to facilitate an understanding by the public of the specific data which formed the basis for EPA's individual RACT determinations. EPA has indexed all of the data by process category and, in addition, it has indexed each process by the emission points therein.

Commentators have not supported their assertion that the data in the docket is not representative of existing iron and steel-making facilities, nor that EPA has excluded any particular data, except as noted below regarding door visible emission data. They have not identified any specific test data they considered to be deficient, or that had been excluded by EPA. Furthermore, review of the docket will confirm that in all cases where U.S. EPA's disapproval or conditional approval of a State proposal was based on a determination that a more stringent limitation was generally achievable, U.S. EPA relied on data in the docket from testing of existing, retrofitted full-scale plants.

Comment: EPA's proposed rulemaking is a violation of Section 110 (a)(2) and (a)(3) of the Act because neither the Indiana revisions nor the Indiana SIP requires source monitoring and reporting provisions. The commentator further claimed that in light of this deficiency, the Administrator has a duty under Section 110(c) of the Act to promulgate such regulations.

Response: Under § 110(a)(2)(F) of the Clean Air Act, one of the criteria for SIP approval is that the Administrator must determine that the plan contains requirements for installation of equipment by owners or operators of stationary sources to monitor emissions from such sources and for periodic reports on the nature and amounts of such emissions. As a part of the original Indiana State Implementation Plan, the State submitted, and EPA approved, Rule 325 IAC 3–1 (formerly APC 8). The regulation is entitled "Continuous Monitoring of Emissions" and includes monitoring requirements for fossil fuel-fired steam generators of greater than 250 MM/BTU per hour, nitric acid plants of greater than 300 tons per day production capacity, sulfuric acid plants of greater than 300 tons per day production capacity, and certain petroleum refinery catalyst regenerators.

These four source categories were identical to those listed in EPA's regulations specifying minimum emission monitoring requirements for State SIPs in 40 CFR Part 51.19, Appendix P.

The State of Indiana has not incorporated into its coke oven battery regulation a requirement to implement a program of continuous monitoring for these sources. It is apparent that the State of Indiana has determined that 325 IAC 11-3 need not be supplemented for this particular source category, and that resources which are currently available to the State are adequate to ensure that sources maintain compliance with applicable limitations. The State intends to rely on its own enforcement authority to conduct regular visible emissions inspections of all battery emission points to ensure compliance.[1] The State will also review data from continuous monitoring devices installed in combustion stacks and pushing emission control systems by various coke operators pursuant to recent Federal Court Orders, and date which is obtained as a result of U.S. EPA observations of Indiana facilities. EPA has generally determined to defer to the State's judgment in this area, and thus declines to promulgate additional regulations on source monitoring for inclusion in the Indiana SIP.

Comment: EPA's use of its enforcement personnel in this rulemaking violates the Due Process Clause of the United States Constitution and the Administrative Procedure Act, 5 U.S.C. 554(d)(2), in that it is improper for personnel involved in the enforcement of air pollution control regulations to review the adequacy of proposed regulations.

Response: The commentators' remarks were specifically directed at what they perceived to be improper commingling of certain EPA enforcement and regulatory functions on the part of several enforcement attorneys who were responsible for the prosecution of a lawsuit against Bethlehem Steel Corporation for violations of air pollution requirements at Bethlehem's Burns Harbor, Indiana coke oven batteries, and who also participated in the preparation or the review of the rulemaking notices on Rule 11-3. Without citing any specific instances of impropriety, these commentators suggested that EPA's decision regarding approval or disapproval of Rule 11-3 may have been influenced by a desire to preserve its established position in the enforcement action.

The separation of functions requirement of the Administrative Procedure Act (APA) applies only to cases of "adjudication," and even there only when the applicable statute mandates a hearing on the record. *Bethlehem Steel Corporation* v. *U.S. EPA*, 638 F.2d 994, 1008-09 (7th Cir. 1980). See also *Buckeye Power, Inc.* v. *EPA*, 481 F.2d 162 (6th Cir. 1973). Since the SIP review process is not "adjudication" and since the Clean Air Act does not require such a hearing for plan approvals under Section 110(a), the APA's separation of function requirement is inapplicable to this rulemaking.

EPA is unaware of any general prohibition, apart from the APA, against combining regulatory and enforcement functions and asserts that there is, in fact, a presumption of regularity and integrity in Agency proceedings that must be overcome by a litigant seeking to prove bias. *Bethlehem Steel Corporation* v. *U.S EPA*, 638 F.2d at 1009. However, in the interests of responding to the commentators' concern, EPA has briefly analyzed today's rulemaking action as it affects the coke batteries in Burns Harbor and as it may have been affected by the litigation against Bethlehem.

EPA believes that the concerns raised in these comments have significant weight only to the exent EPA *disapproves* a state SIP revision, and have little force to the extent EPA approves such a revision. First of all, the commentators here expressly urged EPA to approve the regulations in question, and so cannot legitimately complain about any bias in favor of approval even if it existed. Beyond that, the central concern with "commingling" is that EPA might take regulatory action to preserve a position it has taken in an enforcement proceeding. But to the extent EPA approves a state SIP revision, it is taking an action that, if it bears on the enforcement action at all, can only serve to limit EPA's ability to continue to pursue certain aspects of the identical action.

In today's rulemaking, the Agency is disapproving only sections 2(g) and 2(h) of Rule 11-3, as they apply to Porter County where the Bethlehem Burns Harbor facility is located. These sections govern emissions from the coke oven battery pushing and quenching operations, respectively. The enforcement action against Bethlehem includes pushing but not quenching. In the agency's view, the commentators commingling argument, therefore, reduces to an objection to EPA's disapproval of section 2(g) of Rule 11-3, which regulates pushing.

However, the record shows that this disapproval simply carried forward a well established and generally applicable EPA policy. The pushing section of Rule 11-3 must be disapproved because the rule is unenforceable without some methodology to measure the capture efficiency of a pushing emissions control device installed pursuant to the rule. EPA's technical position on this point is consistent with EPA's past treatment of all coke battery sources throughout the United States and with the positions advanced by the Agency in similar rulemaking actions in Pennsylvania, West Virginia, Kentucky, Illinois, Ohio, and Michigan. EPA draws the public's attention particularly to rulemaking which occured in the State of Illinois. See 46 FR 44172, 44178 (September 3, 1981).

In sum, the Agency has complied with the pertinent procedural requirements and the commentator has provided no information showing that participation by enforcement division personnel has biased the rulemaking. Thus, this action violates neither the Administrative Procedure Act nor the process clause of the Constitution.

Comment: In determining emission standards that represent RACT for existing sources in non-attainment areas, it is necessary to evaluate the most recent developments in control technology and operating and maintenance (O&M) practices. If a technology or operating and maintenance practice is used in normal operations, there must be a presumption that such practices are both technologically and economically feasible for that class of emission sources.

For an operator of a source to avoid the presumption that performance levels achieved at certain other sources are not technologically and economically feasible, he must show that his source is not part of the class defined by the sources for which new emission data were obtained.

Response: In making assessments of whether particular control technologies or operating and maintenance (O&M) practices fall within the general range of RACT level control, EPA carefully evaluates recent developments and state of the art technology as information becomes available. However, EPA does not mechanically apply a presumption based upon the extent to which such

[1] For many of the coke oven battery operations and emission points which generate particulate matter emissions, such charging, topside leaks and doors, it is presently impossible to install the type of mechanical compliance monitors contemplated in section 110(a)(2) (F)(ii).

technology or practices have been adopted by the pertinent industry. Rather, EPA makes major efforts to re-examine its positions as new data becomes available, especially where it has information that a new technology or practice is particularly cost-effective. For example, EPA believes that it has been instrumental in encouraging the recent development of more cost-effective technology for the control of particulate emissions from blast furnace casthouses despite the fact that such techniques had very limited application in the American steel industry when they first came to the attention of the Agency.

This approach assures the Agency and the public that the Agency's RACT determinations not only take new information into account, but also that any new information used in determining emission standards that represent RACT is fully evaluated as to technological and economic feasibility. An unevaluated presumption would not provide this assurance.

Comment: The data in the technical support docket do not include information on the air quality impact of the various processes, controls or limitations as set out in the September 8, 1980 Guidance Documents which outline RACT levels of control. Consequently, EPA's basis for evaluating the State's submissions against the Part D RACT requirement was inadequate.

EPA disagrees; its basis was adequate even without that information. The State of Indiana submitted this regulation as part of a "RACT plus studies" particulate control strategy, as opposed to submitting the regulation as an integral part of a modeled attainment demonstration for the non-attainment areas of Indiana. As such, the regulation was intended, at a minimum, to implement levels of control that were reasonably achievable from just a technological and economic standpoint. EPA did not therefore review Rule 11–3 in terms of its ultimate ability to cure air quality deficiencies, because the State had made a commitment to conduct additional studies on the causes of particulate nonattainment, and to develop and to submit to EPA additional strategies and enforceable regulations adequate to demonstrate attainment of the NAAQS. The State has the burden of showing that a relatively lax degree of control nevertheless amounts to "RACT" because more stringent control is unnecessary to bring about timely attainment and maintenance. Here the State has made no attempt to meet that burden.

Comment: Neither section 110(a)(2)(I) nor Part D requires that state implementation plans be revised to meet the requirements of Part D. Rather, a plan must be approved if it either meets the requirements of Part D or bans construction or modification of major emitting stationary sources after July 1, 1979. Thus, the Administrator may not disapprove a Part D revision for failure to meet the requirements of Part D if it otherwise complies with section 110 as to the construction ban.

Response: EPA notes that the State of Indiana has chosen to revise its plan to accommodate Part D of the Act and has represented to EPA that it has no desire to continue sanctions in Indiana. Therefore, discussion of any other option which may have been available to the State is inapposite to this rulemaking.

Comment: The Agency's action on the Indiana PM SIP revision is based in part on the invalid proposition that the SIP must include a requirement for RACT on all stationary sources. Rather, sections 172(b)(5) (which requires that SIP revisions identify and quantify emissions from major new or modified stationary sources) and 173(1) (which sets forth requirements for a new source permit program) provide states with alternative means of accommodating new source growth. This means that RACT is not required for all sources and that the definition of RACT should be left to the states, depending upon the type of new source program chosen.

Response: Although Sections 172(b)(5) and 173(l) contemplate new source growth, the overridding objective of the 1977 Amendments was to assure that States have regulations capable of ensuring the achievement of the primary NAAQS as expeditiously as practicable, but in no event later than by December 31, 1982. EPA interprets this to mean that all sources which are currently contributing to the nonattainment problem in an individual State must be controlled to the extent necessary to meet the NAAQS by the applicable attainment date. The commentator suggests that the level of control which constitutes RACT should depend upon the type of new source program selected by the State. The State could choose to impose very stringent limits on existing sources and provide a growth cushion satisfactory to obviate the need for offsets for new sources. Alternatively, the State could implement a SIP which ensures the attainment of the standards, but which provides no margin of growth, and consequently requires case-by-case offsets for new sources. EPA acknowledges that both of these two approaches are available to the State, but emphasizes that the approach or combination of approaches chosen must lead to an attainment demonstration. Indiana has failed to submit an attainment demonstration for all non-attainment areas, and has therefore not met the threshold air quality requirements for either approach. Furthermore, the State of Indiana has submitted no technical justification to EPA that the State of Indiana has submitted no technical justification to EPA that the State has systematically imposed more stringent limits on certain sources in order to permit the imposition of limitations on coke battery sources, for example, which are less stringent then the range of RACT levels of control documented in EPA's iron and steel technical docket.

Comment: EPA's reliance on its "conditional approval" mechanism to approve revisions to the Indiana Plan is unauthorized in law. EPA must either approve or disapprove proposed revisions to the Indiana Plan. If disapproval is warranted, the Administrator has a non-discretionary duty to promulgate revisions to the Indiana Plan which meet the requirements of Part D of the Clean Air Act, which include a demonstration of attainment of the primary standards for particulate matter by December 31, 1982.

Response: This comment is immaterial. In today's rulemaking, EPA is not conditionally approving any part of Rule 11–3.

In any event, EPA disagrees with the commentators' contenfion that the conditional approval mechanism of approving revisions to the Indiana SIP is unauthorized in law, and that EPA must either approve or disapprove proposed revisions to the Indiana Plan. A discussion of conditional approval and its practical effect appears at 44 FR 38583, July 2, 1979, and 44 FR 67182, November 23, 1979. In the past, EPA has approved revisions to a State's plan which were in substantial compliance with the requirements of Part D of the Act, provided that noted deficiencies were to be remedied within a prescribed period of time. This policy of conditional approval has recently been upheld by U.S. Courts of Appeals in the Second and Fifth Circuits as a reasonable interpretation of the Clean Air Act. See *The Connecticut Fund for the Environment, Inc.*, v. *Environmental Protection Agency*, 672 F.2d 998; and *City of Seabrook, Texas*, v. *Environmental Protection Agency*, 659 F.2d 1349.

In *Seabrook*, the Court emphasized the important policy considerations which supported EPA's decision to conditionally approve portions of the Texas SIP. The Court indicated that

when the goals of the Clean Air Act could be met by State revision or by federal promulgation, that it was reasonable for EPA to permit the State to proceed to make the requisite changes. The Court noted that "* * * we find it unlikely that Congress intended the imposition of a federal plan to be preferred to a commitment by the state to make the needed modifications." *Seabrook*, 659 F.2d 1349, 1357.

Comment: In gathering coke oven battery door visible emissions data for the technical support docket, EPA has excluded very high visible emission readings which were attributable to malfunctions. At the same time, EPA is planning to disapprove the Indiana regulation which allows malfunction exemptions. (325 IAC 1.1–5, formerly APC 11). By disapproving the door limit in 11–3 on the basis of data that does not consider malfunctions, and simultaneously disapproving the malfunction exemption regulation, EPA has attempted to impose upon industry an impossible standard to meet.

Response: This comment was received in response to EPA's July 3, 1980 rulemaking wherein EPA proposed to disapprove that portion of 11–3 which governed visible emissions from coke battery doors. The comment also reflected EPA's March 27, 1980 (45 FR 20431) rulemaking where the Agency proposed to disapprove Indiana's malfunction regulation. Since that time, the State of Indiana has revised its malfunction regulations to respond to EPA's concerns. Indiana submitted the revised regulation on January 21, 1981, and EPA proposed to approve it on December 3, 1982 (47 FR 54476). It appears that the basis for commentators' concern about the availability of a malfunction exemption to be used in conjunction with a door standard no longer exists.

Regarding the commentators' objection to the exclusion of malfunction data in the RACT iron and steel technical support docket, EPA's intent was to include data which was generally based upon good to superior performance at sources applying reasonably available control technology. The emphasis was on ascertaining that level of control which was generally achievable assuming diligent efforts by source operators. Occasionally, even at model facilities, significant excursions beyond RACT levels of control will occur, due to malfunctions. However, EPA did not believe that it was useful to factor into its data bank those very high visible emissions readings attributable to malfunctions, where they were not representative of the typical performance of individual facilities.

Comment: EPA should have taken final rulemaking action on 325 IAC 11–3 within four months of the June 26, 1979 receipt of the original version of the rule. EPA should immediately and unconditionally approve 325 IAC 11–3 as the sole SIP requirements for coke ovens with an effective date of October 26, 1979. Commentator alleges that EPA's June 1, 1982 rulemaking on 325 IAC 11–3 (47 FR 23773) is the Agency's first action on this regulation as it affects Porter County, Indiana.

Response: EPA does not agree with the commentator that the Clean Air Act requires the Administrator to act on revisions to a State Implementation Plan within four months of the date of submittal. Section 110(a)(2) of the Act indicates that the Administrator must take rulemaking action within four months after the date required for submission of a plan under § 110(a)(1). Section 110(a)(1) refers exclusively to the original plans which were to be submitted by the States within nine months after the initial promulgation by the Agency of primary and secondary ambient air quality standards.

EPA cannot "immediately and unconditionally approve 325 IAC 11–3 as the sole SIP requirement for coke ovens with an effective date of October 26, 1979" because the rule contains certain deficiencies which are enumerated in great detail in today's rulemaking package. Furthermore, the Indiana coke battery rule which was designated as APC–9 and submitted to EPA for approval on June 26, 1979 has been superseded in Indiana by rule 11–3, which was not submitted for EPA review until August 27, 1981.

EPA agrees that the June 1, 1982 rulemaking was the Agency's first action on Rule 11–3, as submitted by Indiana on August 27, 1981. EPA acknowledges that the delay was due, in part to the necessity for re-evaluating certain of the positions taken by the Agency in the July 3, 1980 Notice of Proposed Rulemaking, as a result of public comments received.

IV. Comments and Action on Proposed Rule 325 IAC 11–3

Indiana's Coke Battery Rule, APC–9, was originally submitted for U.S. EPA approval as an SIP revision on June 26, 1979. On July 3, 1980 (45 FR 45314), U.S. EPA proposed to disapprove this rule. On May 22, 1981, the Indiana Air Pollution Control Board amended APC–9 (recodified as Rule 11–3). The Board formally submitted the new rule on August 27, 1981. On June 1, 1982 (47 FR 23773), U.S. EPA reproposed action to conditionally approve this rule. Following is an analysis of U.S. EPA's final action on each provision of Rule 11–3, including a discussion of all technical comments received in response to the July 3, 1980 and the June 1, 1982 **Federal Register** notices announcing U.S. EPA action on these rules.

Rule 325 IAC 11–3

Section 1. Applicability.—This section, which Indiana submitted to EPA subsequent to the Notice of Proposed Rulemaking, provides that the provisions of Rule 11–3 shall apply to all coke batteries in Indiana for which construction or modification commenced prior to June 19, 1979. Emission limitations for batteries, the construction or modification of which commenced after June 19, 1979, would be established as permit conditions pursuant to the provisions and requirements of 325 IAC Article 2 (Permits and New Source Review).

Discussion: One commentator felt that Rule 11–3 should be disapproved to the extent that it contains provisions which are less stringent than provisions which were set out in permits issued to coke batteries prior to June 19, 1979. EPA notes that permit conditions for new sources operate independently as requirements of a State Implementation Plan. See 40 CFR § 51.18, § 52.02(d), § 52.23. A State permit is that requirement of the SIP which is uniquely applicable to the source for which it is issued, and it is not superseded by the terms of regulations generally applicable to other sources. EPA therefore believes that Section 1 of 11–3 is approvable.

Action: Approval of Section 1.

Section 2. Emission Limitations.

(a) *Pre-carbonization Emissions.*—This section provides that particulate emissions from pre-carbonization towers shall be determined by referring to 325 IAC 6–1, and that visible emissions from such sources shall be governed by 325 IAC 5–1.

Discussion: On July 3, 1980, EPA proposed to disapprove the June 19, 1979 version of APC 9 for a series of specifically enumerated deficiencies which were unrelated to 2(a). EPA received no comments on Section 2(a). The only precarbonization towers in the State of Indiana are located in Lake County. EPA is still reviewing the Lake County strategy portion of Rule 6–1, and will be taking separate action on this strategy in a later rulemaking notice which will also address the issue of particulate emissions from precarbonization towers. Concerning visible emissions from these units, EPA

will also be taking separate rulemaking action on Rule 5–1, which will address the acceptability of the visible emissions standards for precarbonization units.

Action: Deferred on Section 2(a)

(b) *Charging Emissions.*—This section contains interim and final visible emission limitations for the charging operation, and associated compliance schedules for meeting each of four increments of progress. The regulation requires final compliance on and after July 1, 1982, with a final standard which prohibits visible emissions for more than a cumulative total of 125 seconds during 5 consecutive charging periods. One charge out of 20 consecutive charges may be excluded from the total seconds of charging emissions in accordance with procedures set out in the rule.

Discussion: In considering appropriate action on this section, U.S. EPA evaluated the stringency of the emission limitations required to be achieved, as well as the compliance schedules by which sources were to achieve compliance. In its July 3, 1980 rulemaking notice, 45 FR 45314, U.S. EPA proposed to disapprove the June 19, 1979 version of APC–9 because, *inter alia*, the compliance schedules in the regulation permitted sources to delay compliance unnecessarily for certain coke oven emission sources including the charging operation, lids, offtake piping, collector mains and doors, to July 1, 1982. EPA found no deficiency in the actual charging visible emission limitation.

EPA received comments regarding the length of the compliance schedules from the State, the steel industry and a citizens group. The State and the industry insisted that additional time was required to meet what the State construed to be "new" limits, and that the Clean Air Act allows states to give additional time to sources to achieve compliance on a consistent basis with new limits. The citizens group argued that additional time was unnecessary and could not be permitted according to Section 172 of the Clean Air Act, which requires the implementation of RACT as expeditiously as practicable.

Although EPA does not agree that Indiana's new standards impose more stringent requirements than the existing SIP, for a number of reasons EPA reconsidered its position, and on June 1, 1982, 47 FR 23773, reproposed action on the coke battery rule, and proposed to approve the schedules. EPA recognized that Rule 11–3 established meaningful interim compliance dates for achieving interim reductions which represented reasonable further progress toward attainment of the standards, as required by Section 172(b) of the Clean Air Act. EPA further indicated that disapproval of these dates, and the subsequent rulemaking that a disapproval would necessitate, might delay final compliance, and would therefore violate the intent of Section 172 of the Act. Finally, EPA did not believe, from a practical point of view, that it could publish its final rulemaking action on this regulation before the July 1, 1982, final compliance date in the regulation. EPA believes that for all of the above reasons, final approval of these schedules is justified.

Regarding the actual charging standard, U.S. EPA has received mixed comments concerning the representativeness of the 125 seconds in five charges standard (with exemption for 1 charge in 20) as RACT. Comments from steel industry sources support the 125/5 (1 in 20) standard. However, these commentators also refer to earlier remarks made by U.S. EPA in the context of rulemaking on iron and steel regulations in the State of Illinois (45 FR 50825), July 31, 1980, in which U.S. EPA suggested that an appropriate RACT standard for charging actually constituted a range of numbers of from 90–125 seconds for 5 charges. These commentators believe that this range represents a degree of control more stringent than RACT, although, as previously indicated, they support the 125/5 (1 in 20) limit contained in the Indiana regulation.

The citizens group insists that the limit of 125/5 (1 in 20) does not equate to RACT stringency, and recommends that a standard of 100/5 (1 in 20) be substituted. It asserts that this alternate standard is supported by performance data obtained at U.S. Steel facilities in Clairton, Pennsylvania, Gary, Indiana, and Fairfield, Alabama; at CT&I in Pueblo, Colorado; at Interlake in Chicago, Illinois; and at Kaiser Steel in Fontana, California.

EPA has carefully considered the commentator's point regarding the stringency of this standard. EPA notes that where the Agency has made independent evaluations of RACT levels of control, the conclusions have generally been expressed in terms of a range within which a source may operate and still be achieving RACT levels of control. In EPA's judgment, the State of Indiana has submitted an approvable regulation which specifies a level of control that falls within the range that is acceptable to EPA. EPA does not, however, disagree that certain sources may be capable of achieving levels of control which are more stringent than the standard specified in the proposed Indiana SIP regulation.

EPA also received a comment from a citizens group to the effect that the exemption in the charging rule which permits one charge out of twenty consecutive charges to be exempt from the total seconds of charging emissions, is unwarranted. EPA will address this comment under Section 4(a).

Finally, EPA received a comment from a citizens group concerning the definition of charging. The commentator felt that the specific emission points addressed by the standard should be defined in Rule 325 IAC 1.1–1. EPA has carefully reviewed this comment and believes that the definition of charging in 1.1–1 is adequate when considered in conjunction with the references to charging in 325 IAC 11–3, the coke battery regulation. 325 IAC 1.1–1 defines charging basically as the introduction of coal into a coke oven. However, Section 2(b), of 11–3 actually enumerates the emissions which are to be limited by the charging standard. This provision indicates that visible emissions from the charging system, including any open charge port, offtake system, mobile jumper pipe or larry car, are to be controlled. Finally, Section 4(a) of 11–3 further clarifies which emissions are to be exempted from the charging limitation.

Rules 1.1–1 and 11–3 therefore provide a clear identification of what specific emission points are to be included within the definition of charging, which was the commentator's concern.

Action: Approval of Section 2(b).

(c) *Charging Port Lid Emissions.*—This section contains interim and final visible emission limitations for charging port lids, and associated compliance schedules for meeting each of four increments of progress. The regulation requires final compliance on and after July 1, 1982, with a final standard which prohibits visible emissions from more than three percent of the total charge port lids on any coke oven battery.

Discussion: In the July 3, 1980 rulemaking, EPA proposed to disapprove the June 19, 1979 version of APC 9 because, *inter alia*, the compliance schedules in the regulation permitted sources to delay compliance unnecessarily for certain coke oven emission sources including charging port lids. Concerning schedules for achieving compliance with limits specified in § 2, public comments received, and EPA's rationale for approving these schedules, see the discussion under § 2(b). EPA's rulemaking notices of July 3, 1980 and June 1, 1982 cited no deficiencies in the actual charging port lid visible emission standard, and EPA received no comments on the technical acceptability

of the charge port lid visible emission standard.

Action: Approval of 2(c).

(d) *Offtake Piping Emissions.*—This section contains interim and final visible emission limitations for the offtake piping, and associated compliance schedules for meeting each of four increments of progress. The regulation requires final compliance on and after July 1, 1982, with a final standard which prohibits visible emissions from more than ten percent of the total offtake piping on any coke oven battery.

Discussion: In the July 3, 1980 rulemaking, EPA proposed to disapprove the June 19, 1979 version of APC 9 because, *inter alia*, the compliance schedules in the regulation permitted sources to delay compliance unnecessarily for certain coke oven emission sources, including offtake piping. Concerning schedules for achieving compliance with limits specified in § 2, public comments received, and EPA's rationale for approval of these schedules, see the discussion under § 2(b). EPA's rulemaking notices of July 3, 1980 and June 1, 1982 cited no deficiencies in the actual offtake piping visible emissions limitations. Regarding the ten percent emission limitation from the offtakes, EPA received a public comment asserting that this standard did not represent RACT, and should not therefore be approved. The commentator presented a summary of visible emission offtake observations at the United States Steel, Clairton, Pennsylvania facility which demonstrated that these batteries were able to meet a five percent standard at the offtakes, and alleged that this standard had been met at other batteries as well.

EPA has carefully considered the commentator's data relating to the stringency of this standard. EPA notes that where the Agency has made independent evaluations of RACT levels of control, the conclusions have generally been expressed in terms of a range within which a source may operate and still be achieving RACT levels of control. In EPA's judgement, the State of Indiana has submitted an approveable regulation which specifies a level of control that falls within the range that EPA generally approves as RACT. EPA does not, however, disagree that certain sources may be capable of achieving levels of control which are more stringent that the standard specified in the proposed Indiana SIP regulation.

Action: Approval of 2(d).

(e) *Gas Collector Main Emissions.*—This section contains interim and final visible emission limitations for the gas collector main, and associated compliance schedules for meeting each of four increments of progress. The regulation requires final compliance on and after July 1, 1982, with a final standard which prohibits visible emissions from more than three points on the gas collector main, excluding the connection with the standpipes.

Discussion: On July 3, 1980, EPA proposed to disapprove the June 19, 1979 version of APC–9 because, *inter alia*, the regulation did not contain an inspection procedure to determine compliance with the gas collector main emission limits. The only comment that EPA received was from the State of Indiana, which agreed with EPA's observation and committed to revise the regulation and include an inspection procedure for determining compliance at the gas collector main. On May 22, 1981, the Board amended the rule and added Section 5(e). EPA finds that both the visible emission standard and the inspection procedure are acceptable. On June 1, 1982, EPA reproposed action on 11–3, and proposed to approve new paragraph 5(e). No comments were received on EPA's proposed action on 5(e).

Concerning schedules for achieving compliance with limits specified in § 2, public comments received, and EPA's rationale for approval of these schedules, see the discussion under § 2(b).

Action: Approval of § 2(e) and 5(e).

(f) *Oven Door Emissions.*—This section contains interim and final visible emission limitations for coke oven doors, and associated compliance schedules for meeting each of four increments of progress. The regulation requires final compliance on and after July 1, 1982, with a final standard which prohibits visible emissions from more than ten percent of the total coke oven doors, plus four doors, on any coke oven battery.

Discussion: On July 3, 1980, U.S. EPA proposed to disapprove the June 19, 1979 version of APC–9 because, *inter alia*, the Agency did not believe that Indiana's coke oven door rule represented RACT since it permitted an exemption from the visible emission limitation of ten percent of the doors, plus four doors (10%+4). Furthermore, the methodology for determining compliance with the 10% door standard was unacceptable since it was based upon counting the total number of doors on the battery rather than the total number of doors on ovens which are operational and which are therefore potential leakers. EPA noted that an exclusion of a maximum of two doors is supportable by available data.

EPA received numerous comments in response to its July 3, 1980 notice, from the State of Indiana, from the steel industry, and from a citizens group.

The State and the steel commentators argued that EPA's technical docket did not support the conclusion that 10%+two doors was achievable, or that it represented a reasonable level of control. These commentators also claimed that there was no valid air quality reason for distinguishing between total number of ovens and operating ovens. Further, the State felt that it would be difficult for an inspector to determine the operable status of the ovens. The steel industry commentators also alleged that there were deficiencies in EPA's methodology for data collection.

The citizens group supported EPA and felt that Indiana's proposed 10%+4 doors was not representative of RACT. They also recommended that the door standard specify that spare doors and seals should be kept on the premises at each facility and that the plant be required to maintain a door repair shop capable of prompt and efficient repair of doors.

Upon reconsideration of the available technical data, EPA proposed conditional approval, on June 1, 1982, of Indiana's 10%+4 doors standard, provided the rule were based on the total number of operating ovens, rather than the total number of ovens on the battery. EPA acknowledged that the difference between a two and four door cut-off translated to a 1–2% differential allowable door leak rate, depending upon the specific coke battery, and that the emissions rate equivalent to this differential was not important enough to warrant a change in the emissions standard. However, the proposal to accept the 10%+4 door standard was premised on a RACT standard based on total operating ovens, not total ovens. EPA noted then, as it does today, that a standard based upon total ovens has the potential to permit a significant relaxation of the 10%+4 standard under circumstances where cold ovens, which are not potential leakers, are nevertheless counted in the formula to determine compliance.

EPA acknowledges that the door data in the iron and steel technical docket does not indicate whether the ovens associated with the doors being inspected were operational or not. However, even without this data, it is clear that counting cold ovens in the calculation of percent doors leaking has the effect of permitting the operating oven leak rate to mathematically increase. In those instances where a

battery is being operated with a very significant number of ovens out of service, the standard as proposed by Indiana could allow the operating oven leak rate to increase by a third or a half, and could have an impact on air quality in the area, especially since the quantity of door emissions appears to increase exponentially and not linearly with the percentage of leaking doors. Further, because EPA's intent was to include data in the docket which was generally based upon good-to-superior performance at sources applying RACT levels of control, the likelihood that any appreciable portion of the data in the docket was collected on batteries with a significant number of non-operating ovens is remote. EPA sees no justification for permitting door leaks on a battery to be controlled less stringently simply because some ovens in that battery are not being operated.

The State of Indiana has not satisfied the condition for approval specified in the June 1, 1982 rulemaking. The section does not represent a RACT level of control for coke oven doors, which is required under the Clean Air Act for the nonattainment areas of Marion and Lake Counties which lack an attainment demonstration. EPA must therefore disapprove this section for these counties.

One commentator claimed that a visible emissions inspector would have difficulty in ascertaining the operational status of an oven. EPA does not believe that this represents a problem because the coke plant supervisor knows the operational status of each oven, and can impart this information to the inspector.

Action: Disapproval of 2(f) for the nonattainment counties of Marion and Lake. Federal SIP regulation APC–3 as approved on October 25, 1975 (40 FR 50036) and Federal SIP regulation 325 IAC 6–3 as approved on July 16, 1982 (47 FR 30972) will remain in effect. (On July 16, 1982 (47 FR 30972), EPA approved the recodification of Federal SIP Regulation APC–5 as 325 IAC 6–3, and also approved certain revisions to the original regulation). Approval of 2(f) for Porter and Vigo County sources, which are not presently required to implement regulations which ensure a RACT level of control.

(g) *Pushing Emissions.*—This section requires that all coke oven batteries be equipped with a device capable of capturing and collecting coke-side particulate matter such that the effluent gas emissions contain no more than 0.04 gram per 2.0 kilogram of coke pushed (0.04 lb/ton). In addition, the device must be designed and operated in compliance with an operating permit to collect 90% of the pushing emissions. This section provides that if the construction and design of the device was approved by the Board in granting the permit, the device, if operated properly, would be assumed to be collecting 90% of the pushing emissions. This permit would be submitted to U.S. EPA as a SIP revision.

Discussion: On July 3, 1980, U.S. EPA proposed to disapprove the June 19, 1979 version of APC–9 because, *inter alia*, the rule was unenforceable since it did not provide a methodology for measuring the 90% particulate matter capture efficiency required in the rule for a pushing emissions control device in Indiana. EPA indicated that the State could correct this deficiency by developing and providing a method of observing and evaluating capture efficiency from the pushing operation, or alternatively, by substituting an opacity standard and an associated observation method.

In response to this notice, EPA received public comments from the State of Indiana, the steel industry, a law firm and citizens group. The State committed to specify that 90% capture would be defined as the construction and design which had been approved by the Board in granting the permit, on the assumption the device was operated properly, i.e., in compliance with permit conditions. These permits would be submitted to U.S. EPA as SIP revisions. On May 22, 1981, the State revised the regulation to reflect this commitment.

The steel industry commented that EPA had made no representation that any data in the record indicated that the corrections to the rule which were sought by EPA were feasible. They agreed that determining compliance with the 90% capture requirement was subjective, but claimed that one of EPA's suggested alternatives, that of an opacity standard, could be even more subjective. They claimed that because opacity is unrelated to the percentage of emissions escaping, requiring an opacity standard while rejecting the design efficiency standard is arbitrary and capricious.

Comments from the citizens group recommended the adoption of an opacity standard for the pushing operation which would prohibit emissions in excess of 20% opacity except for a total of 50 seconds averaged over five consecutive pushes. They also suggested that the mass particulate testing procedure for the outlet of the control device should include the front and back halves of the sampling train minus sodium sulphate, because a full train methodology would more accurately measure the quantity of particulate matter generated. They supported EPA's conclusion that the regulation was unenforceable because measurement of capture efficiency was not feasible.

Following the Board's submittal of the amended coke battery rule on August 22, 1981, EPA reproposed action on this regulation. EPA indicated that the modification to the rule was not satisfactory to cure the original enforceability problem. EPA noted that a design efficiency percentage provision would not constitute an actual enforceable emission limitation, and that this percentage was not a determinable quantity, even on a design basis because there is no method for verifying the 90% capture. Requiring that the Indiana Air Pollution Control Board review and approve the design and construction of a pushing emissions control system would not solve this deficiency.

Data in the technical docket (*See* item #IN070081.005) further explores the problems inherent in specifying a design capture efficiency in lieu of a more enforceable standard. Design capture efficiency is inadequate as a compliance standard for sources with pushing emission control devices which are already operational and which were not originally designed to meet a specific capture efficiency because the original design parameters may not reflect later modifications to control systems. This material notes that there were no operating pushing control systems prior to 1972, and that even assuming that reconstruction of the original design parameters were possible, because the systems which have been installed in the recent past were the product of significant design and engineering compromises, the original design might no longer validly represent the current operating characteristics of the system.

In response to the steel industry comments that there is no data in the record which supports the concept that the corrections suggested by EPA are feasible, EPA acknowledges that it does not believe that an enforceable method of observing and evaluating capture efficiency is available. However, EPA remains receptive to the development and submittal of such a methodology by the State, and emphasizes that it is the State's responsibility to promulgate enforceable regulations. There is adequate technical support in the docket for an enforceable opacity standard with an appropriate observation method to measure uncaptured emissions.

EPA has placed in the docket three recommended test methods (D, E, and F) for determining the opacity of pushing plumes. In addition, EPA has also

included in the docket reports of four pushing emissions opacity tests carried out using those methods (U.S. Steel, Fairfield; Jones & Laughlin Steel Corp., Pittsburgh; CF & I Steel; and Bethlehem Steel, Bethlehem, Pa.) EPA believes that these methodologies, when employed by visible emissions inspectors certified in accordance with U.S EPA Reference Method 9, constitute objective and fair methods for determining compliance. Further, EPA believes that regulation of the opacity of a pushing plume is a way of controlling the amount of emissions released to the atmosphere. Data in the docket demonstrates that "green pushes, i.e., those which are opaque and produce copious quantities of visible emissions, also produce more particulate matter than do non-green pushes. The regulation of the visible portion of these pushes necessarily controls the mass element as well.

One commentator submitted a memorandum filed by the Department of Justice on behalf of EPA in a District Court enforcement action. The commentator suggests that the memorandum supports the proposition than an opacity standard is no more indicative of the pounds of emissions during pushing operations than the 90% capture requirement of the Indiana rule.

Actually, the memorandum states that opacity is not generally mathematically correlated to mass emissions, but recognizes that for particular sources such a relationship may be supportable. The memorandum further notes that generally, higher opacity is associated with higher mass emissions, but that the relationship is imprecise. The 90% capture requirement is acceptable conceptually but is meaningless in practice because there is no objective measurement method. It is undisputed that emissions are generated during the pushing operation. Opacity provides an objective standard which can be established by experience with proven control equipment. It serves as a means for both the regulator and regulated to assess the performance of control equipment and ultimately compliance. Since the record contains examples of reasonably available control technology for which opacity data has been accumulated, setting an opacity standard for the performance of such equipment is both possible and practical.

EPA believes the visible emission standard suggested for incorporation into the Indiana rules by the citizens group, that the opacity of emissions during pushing should not exceed 20% as an aggregate of 50 seconds per five consecutive pushes, constitutes an acceptable example of RACT level of control for the pushing operation. Compliance with this standard could be determined by utilizing Method D, one of the U.S. EPA suggested methods for reading opacity from coke pushing operations.

The citizens group suggested that the method for determining compliance with a mass particulate standard during pushing should be to analyze particulate matter caught in the front and back halves of the sampling train. EPA believes that front half analysis is adequate to determine compliance with a mass particulate standard of .040 lb/ton of coke pushed, for a number of reasons. EPA agrees that a full train sampling methodology would capture some of the finer particulate matter which is not collected by the front half, but also cautions that the back half train also tends to collect materials which condense or react in the impingers of the back half and which do not exist as particulate matter in the ambient air. Therefore, while the front half analysis may permit a small quantity of very fine particulate to escape undetected, the back half catch is generally not totally representative of the particulate matter which exists in the atmosphere. Furthermore, EPA's Reference Method 5 does not specify a methodology for analyzing particulate matter captured in the back half of the sampling train. Finally, EPA notes that all of the performance tests upon which EPA and the States have relied in their determinations that certain standards are RACT and are achievable are based upon measuring particulate matter which is captured in the front half of the sampling train.

In additional comments submitted to U.S. EPA on September 1, 1982, the Indiana Air Pollution Control Board agreed to adopt a modification to Section (g) which would establish a 20% average opacity limitation for four consecutive pushing operations for all coke batteries located in areas designated by the Board as nonattainment for TSP. Compliance with this standard would be determined by averaging all of the 15-second interval opacity readings recorded during four consecutive pushing operations.

EPA has concluded that even if these comments were to be incorporated into rule 11-3, the rule would still not be fully acceptable, because the rule would only be enforceable for batteries located in areas which have been designated as nonattainment by the Board. The Clean Air Act requires, among other things, that EPA judge an emissions standard in terms of its enforceability. The State has offered to promulgate an enforceable opacity standard for batteries located in areas designated by the Board as nonattainment. This commitment does not, however, rectify the enforceability problem for sources which are not located in these areas. In order for this regulation to be fully approvable, the scope of the regulation must also cover all coke batteries in all other areas of Indiana.

In regard to the proposed Indiana pushing opacity standard of 20 percent opacity, averaged over four consecutive pushes, EPA notes, based on its experience, that the duration of most pushes is from 45 seconds to 90 seconds. Only in very unusual circumstances will pushes exceed 90 seconds. EPA is therefore concerned that unless the number of individual 15-second readings constituting one push is limited, a source might have the ability to circumvent the stringency of the regulation by artifically extending the duration of the push in order to incorporate more low readings into the total number of readings to be averaged.

Therefore, EPA recommends that the State's opacity standard should be written such that the opacity for each push be defined as the average of the highest six consecutive observations during the push. If there are less than 6 consecutive observations during the push, that lesser number of observations should be averaged to determine the opacity during the push. Compliance would then be determined based on the average of four opacity values representing the average opacities of each of four consecutive pushes.

This addition to the suggested opacity standard would represent a satisfactory RACT level of control for the pushing operation, providing that it were applied to all nonattainment areas as designated by U.S. EPA. In the absence of such a modification to the Board's September 1, 1982 comments, RACT-level control stringency cannot be guaranteed in all applicable areas. However, the State has not formally revised this regulation to conform to its September 1982 comments. The section remains unenforceable for lack of a methodology for measuring the 90% particulate matter capture efficiency required in the rule for a pushing emissions control device.

Action: Disapproval of (g). Federal SIP regulation APC-3 as federally approved on October 25, 1975 (40 FR 50036) and Federal SIP regulation 325 IAC 6-3 as approved on July 16, 1982 (47 FR 30972), respectively, will continue to apply to emissions from coke oven batteries. (On July 16, 1982 (47 FR 30972), EPA approved the recodification of Federal

SIP Regulation APC–5 as 325 IAC 6–3, and also approved certain revisions to the original regulation).

(h) *Quenching.*—This section governs the coke quenching operation, and prohibits visible emissions during quenching unless the operation is conducted under a tower equipped with "efficient" baffles to impede the release of particulates into the atmosphere. In addition, the quench make-up water may not contain more than 1500 milligrams per liter total dissolved solids. The regulation permits the Board, on a case-by-case basis, to revise these quenching requirements if an individual facility is required to comply with conflicting Indiana Water Pollution Contol requirements, upon consideration of a number of enumerated factors.

Discussion: On July 3, 1980, U.S. EPA proposed to disapprove the June 19, 1979 version of this section of APC 9 because, *inter alia*, the requirement of a total dissolved solids (TDS) content of as much as 1500 milligrams per liter in the quench make-up water was not RACT, and because the regulation did not adequately define the term "efficient baffles." On May 22, 1981, the Indiana Air Pollution Control Board amended Rule 11–3 and submitted the amended rule to U.S. EPA on August 27, 1981. One of the modifications made by the Board was to include a definition of "efficient baffles."

In response to the July 3, 1980 notice EPA received public comments from the steel industry. They felt that the lack of a definition of efficient baffles should not be sufficient grounds for EPA disapproval, and noted that Indiana had agreed to define "efficient baffles". They further believed that EPA's recommendation for no more than 1000–1325 mg/1 in the quench make-up water was not consistent with reasonably available control technology, and that EPA had not defined the technology required to achieve the standard. They questioned whether the technical data supported the conclusion that the quantity of TDS in the quench water as applied to the coke was approximately two times the concentration of TDS in the quench make-up water, or that any relationship existed between TDS level in the quench water and the amount of particulate matter emitted from a quench tower. They also commented that the quenching standard should also vary depending upon the configuration of the tower, and the design of the nozzles and baffles.

EPA reviewed the comments to the proposed rulemaking as well as additional information, and on June 2, 1982, reproposed action on Rule 11–3. EPA concluded that the modified Rule 11–3 satisfied the requirements of RACT, with the exception that there was no method submitted by which compliance with the standard was to be demonstrated. There was no definition of make-up water, no indication of the number of samples to be taken over a specified time period, and no method of analyzing for dissolved solids which would include water sampling location. EPA proposed to conditionally approve the regulation provided these deficiencies were corrected.

In response to the remaining public comments regarding the appropriateness of the Indiana quenching standard, EPA has reviewed and revised some of its original findings based upon a more comprehensive review of available quench test data. As suggested by commentators, EPA's recent studies have considered the effect on PM emissions of factors other than TDS, including the greenness of the coke, the design of the quench tower, the spraying method for quenching and the design of the baffles.

EPA has reconsidered its previous conclusion that the quantity of total dissolved solids in quench water is approximately two times the concentration of total dissolved solids in the make-up water. EPA has concluded that at the present time, the docket on this rulemaking contains insufficient data to fully assess the issue of concentrating effects. Consequently EPA is accepting a 1500 mg/1 TDS in the quench make-up water as a RACT level of control.

EPA has not, however, altered its conclusion that there is a direct relationship between TDS level in quench water and the amount of particulate matter emitted from a quench tower. EPA has established that a linear relationship exists between air emission rates from a coke quench tower (in pounds per ton of coke), and the quality of water used for quenching coke (in milligrams per liter of total dissolved solids). This conclusion derives from studies of quench tower emissions based upon tests conducted at U.S. Steel Corporation plants in Lorain, Ohio and Gary, Indiana, and upon tests at the Dominion Foundry and Steel Company (Dofasco) plant in Hamilton, Ontario, Canada. Reports of these tests are contained in the technical docket on this rulemaking at pages 509305, 508889, 509249, 509337, 509943, and 510243 and in the quenching technical support document.

On a filterable solids basis (EPA Method 5, 40 CFR Part 60, App. A), an increase of 1000 mg/l TDS in quench water results in air emission rates of between 0.10–0.25 lb/ton of coal charged into a coke oven depending on specific design factors (See Table 1 and Figures 3–5 of a review paper prepared by EPA and placed in this rulemaking docket). Therefore, EPA believes that controlling the TDS levels in water applied to coke affects air emission rates and that make-up water with a total dissolved solids value of no greater than that available from the nearest water source represents a standard achievable with reasonably available control technology.

In comments submitted to U.S. EPA on September 1, 1982, the Indiana Board agreed to adopt a modification to Section (h) by adding a paragraph 4(f). This paragraph indicates that quench water samples shall be taken at a point where no further additions to the makeup water can be made. Intervals at which samples are to be taken shall be determined by the Board, and sources which are subject to other sampling requirements are to meet the most stringent requirement. Water samples are to be analyzed for TDS in accordance with ASTM D 1888, Method A, with results expressed in milligrams per liter. However, Indiana has not yet incorporated these comments into 325 IAC 11–3, and has not submitted them to EPA for approval.

As indicated above, the version of 2(h) of 325 IAC 11–3 which is presently before EPA for approval is not adequate to satisfy EPA's concerns, as expressed in the proposed conditional approval of June 2, 1982. The regulation still does not specify the location for sampling or indicate the number of samples to be taken over a specified time period. In addition, there is no method submitted by which compliance with the standard is to be demonstrated. EPA must therefore disapprove Section 2(h).

Action: Disapproval of 2(h). Federal SIP regulation APC–3 as federally approved on October 25, 1975 (40 FR 50036) and Federal SIP Regulation IAC 325 6–3 as federally approved on July 16, 1982 (47 FR 30972) will continue to apply. (On July 16, 1982 (47 FR 30972), EPA approved the recodification of Federal SIP Regulation APC–5 as 325 IAC 6–3, and also approved certain revisions to the original regulation). EPA has determined that the application of APC 5 to the quenching operation will satisfy RACT requirements in that the standard derived from the application of the rule to the quenching operation falls within the range considered to represent a RACT level of control. However, because there is no test methodology which is specified in EPA Reference Methods 1–5 for the quenching operation, the Indiana Part D SIP will remain deficient until an appropriate

test method is enacted by Indiana and approved by EPA or until Indiana submits a revised Section 2(h) quenching regulation which satisfies EPA's concerns, and EPA approves such a revision.

(i) *Underfire Particulate and Sulfur Dioxide Emissions.*—This section provides that particulate and sulfur dioxide emissions from underfire stacks shall be limited by the emission limitations determined pursuant to 325 IAC 6–1 (formerly APC 23), 6–2 (formerly APC 4R) and 7–1 (formerly APC 13), respectively. Furthermore, visible emissions from any underfire stack shall comply with requirements set forth in 325 IAC 5–1 (formerly APC 3).

Discussion: On July 3, 1980, U.S. EPA proposed to disapprove the June 19, 1979 version of this section of APC 9 because, *inter alia*, the rule did not represent RACT for coke battery underfire stack particulate emissions for Vigo and Lake County coke battery sources. EPA took no action on the portion of the regulation which controlled visible or sulfur dioxide emissions from underfire stacks, since rulemaking on Rules 325 IAC 5–1 and 7–1 was to occur in subsequent rulemaking actions.

At the time of EPA's July 3, 1980 proposal, Rule 325 IAC 6–1 did not include Vigo and Lake Counties, and therefore, the appropriate limitation for coke battery stacks in these counties was contained in APC 4R, now codified as Rule 6–2.

EPA determined that the 0.3 gr/dscf limitation in 6–2 did not constitute RACT, and notified the State of Indiana that in order to correct this deficiency the State would be required to submit SIP revisions which constituted RACT for these underfire stacks. In EPA's technical judgment, underfire stack mass particulate emissions falling in the range of 0.020–0.050 gr/dscf represented a RACT level of control.

EPA received a comment from the steel industry to the effect that a coke battery stack standard of 0.020–0.050 gr/dscf did not constitute reasonably available control technology for stacks. EPA disagrees with this comment and notes that its technical support docket for coke battery stacks includes numerous tests conducted at batteries in Alabama, California, Colorado, Illinois, Indiana, Maryland, New York, Ohio, Pennsylvania, Texas and Virginia which produced results which fall within the RACT range.

These tests represented the following steel manufacturers: Armco, Bethlehem, CF&I, Jewell Coal & Coke, Jones & Laughlin, Kaiser, Keystone, Lone Star, National, Republic, Shenango, and United States Steel. EPA believes that its docket contains stack tests from a fair cross-section of the industry, and from the eighteen states in which coke batteries are located.

EPA received a comment from a public interest group recommending that the method for determining compliance with the mass particulate standard for combustion stacks should be to analyze particulate matter caught in the front and back halves of the sampling train, because a full train methodology would more accurately measure the quantity of particulate matter generated. EPA has previously responded to this comment under Section 2(g) concerning Pushing Emissions, but wishes to add that the commentator failed to present information to substantiate the existence of significant condensible particulates (measured by back half analysis) in stack emissions. Further, EPA notes that widely utilized operating and maintenance practices designed to seal leaks in coke oven walls so as to improve the coking of coal serve, in part, to prevent the gaseous emissions which commentators anticipate will be captured in the back half of a sampling train.

Subsequent to the July 3, 1980 proposal, Indiana amended Rule 6–1 to include county-specific appendices for Lake and Vigo Counties. Following the submittal by Indiana or revisions to APC 9 on August 27, 1981, EPA reproposed action on 11–3. EPA noted that the Vigo County Appendix (325 IAC 6–1–13) contained an acceptable emission limit of 0.030 gr/dscf for the Indiana Gas & Chemical Co. batteries, and proposed approval for Vigo County. While the Marion County Appendix (325 IAC 6–1–12) did not contain any specific stack limits for the Citizens Gas and Coke Batteries, the general emission limitation of 0.03 gr/dscf in 6–1 applied, and EPA proposed to approve the rule for Marion County batteries. EPA proposed approval of the APC 4–R (6–2) non-RACT combustion stack limit for Porter County batteries, in accordance with Section 110 of the Clean Air Act. As indicated earlier, the requirement in Part D that plan regulations must incorporate RACT levels of control did not apply to Porter County at the time of EPA's June 1, 1982 reproposal. EPA took no action on the Lake County Appendix, because EPA was still reviewing a particulate control strategy which had been prepared by the Lake County Attainment Task Force and submitted informally to EPA by the State of Indiana.

Action.—Approval of 2(i) as it applies to particulate mass emission for coke battery stacks located in Marion, Porter and Vigo Counties. Defer action on Lake County coke battery stacks because further rulemaking on all TSP sources in Lake County will occur in a separate rulemaking notice. EPA notes that coke battery sources in Porter County must meet RACT requirements in the future in accordance with the Federal rulemaking notice of August 18, 1982 (47 FR 35965).

Section 3. Coke Oven Identification.—This section provides that the identity of each coke oven shall be maintained in such a manner that it is easily and readily visible from the topside and on each coke and push-side on every battery.

Discussion.—On July 3, 1980, EPA proposed to disapprove the June 19, 1979 version of APC 9 for a series of specifically enumerated deficiencies which were unrelated to Section 3. EPA received no public or State comments on Section 3 following this rulemaking. On June 1, 1982, EPA proposed action to conditionally approve 11–3. No deficiencies were noted in Section 3, and no additional comments were received.

Action—Approval of Section 3.

Section 4. Inspection Procedures for Coke Oven Batteries and Test Methods to Determine Compliance.

(a) *Charging Emissions.*—This section sets forth inspection procedures for determining compliance with Section 2(b) visible emissions limitations.

Discussion.—On July 3, 1980, U.S. EPA proposed to disapprove the June 19, 1979 version of APC 9 because, *inter alia*, there were significant deficiencies in the test methodology for determining compliance with the charging emissions standard. EPA noted that the outlined inspection procedure was unclear as to whether the recorded observations from an entire set of consecutive charges must be discarded when such observations are interrupted by an event not in the control of the observer, or whether only those individual interrupted charges must be discarded.

Further, EPA indicated that the provision in the regulation which permits the exemption of one charge out of twenty consecutive charges needed clarification for a number of reasons. The regulation was unclear as to what constituted consecutive charges for the purposes of performing visible emissions observations. Finally, there was no data reduction method specified for use in conjunction with the exemption. EPA indicated that the State must clarify whether it contempted treating the exempted charge as if it had not occurred at all, or whether some other data reduction method was intended.

In response to this rulemaking, EPA received comments from the steel

industry, and from the State of Indiana regarding the clarity of the inspection procedures. The steel commentators alleged that the procedures were sufficiently clear. They claimed that because an interruption in observation caused by an event not in the control of the observer was not intended to interrupt an otherwise consecutive set of observed charges, there was no need to discard all of the data in that set and start all over again. In comments submitted by the State on October 7, 1980, the Board indicated that the regulation clearly stated that only the individual interrupted charge must be discarded. The State also committed to revise the regulation to satisfy EPA's concern that the procedure for determining compliance with the "one in twenty" exemption be clarified.

EPA also received a comment from a citizens group claiming that the "one in twenty" exemption was unwarranted because it permitted an allowance for "malfunctions" which could be otherwise eliminated by good operating and maintenance procedures.

EPA believes that it is justified in approving a "one in twenty" exemption, in conjunction with the charging standard of 125/5. In EPA's observations, most visible emissions from the charging operation statistically are short in duration, with an occasional charge recorded at values three or four times the norm. EPA believes that more emissions control is obtained by limiting the large percentage of charges to a small number of seconds per charge, and permitting an occasional charge to exceed some higher value, than by permitting the average of a set of charges to emit at a higher level.

This conclusion is based, in part, on EPA's experience which indicates that when emissions from the charging operation are relatively small in duration, they are relatively small in amount. The amount of particulate pollution produced by the charging operation is not, however, directly proportional to the number of seconds of visible emissions per charge. When the duration of emissions increases, the increase in pollution is more rapid than would be obtained if the relationship between seconds of emissions and pollution were more linear in nature. The one in twenty exemption, coupled with a satisfactory charging limit respresents a practical compromise between stringency and achievability and takes into account the fact that occasional charges do exceed the standard, despite the best efforts of battery personnel to implement good operating and maintenance practices.

On May 22, 1981, Indiana revised Rule 11-3, and submitted this revision to EPA for approval on August 27, 1981. On June 1, 1982, U.S. EPA reproposed action on 11-3, including a new paragraph which had been added to clarify the charging inspection procedure. U.S. EPA concluded that the additional language added to section 4(a) adequately clarified the exemption in conjunction with the October 7, 1980 letter from Indiana, and that the charging standard satisfied RACT. EPA proposed approval of this section. No additional comments were received on 4(a) following the June 1, 1982 rulemaking.

Action: Approval of Section 4(a).

(b) *Topside Emissions.*—This section sets forth inspection procedures for determining compliance with topside emission limitations contained in Sections 2(c) (charge port lids) and 2(d) (offtake piping).

Discussion: On July 3, 1980, U.S. EPA proposed to disapprove the June 19, 1979 version of this section of APC 9 because, *inter alia*, the rule had no limit to the number of charge port lids open during decarbonization which could be exempted from the recording of topside visible emissions. EPA also noted that Section 5(b) required that compliance inspections of topside emissions were to be conducted by an inspector who was to walk down the middle of the coke battery. EPA indicated that while it would not disapprove the provisions for this reason, it did believe that a potential safety hazard existed in this method of monitoring compliance.

In response to the July 3, 1980 rulemaking, EPA received comments from the steel industry alleging that EPA's request that the State establish a maximum number of charging port lids open for decarbonization was arbitrary, but that if a standard was to be established it should be no less than three ovens. On October 7, 1980, the State committed to include a limit of a maximum of three ovens. The State also committed to revise the inspection procedures to take into account EPA's concerns about safety. These commitments were subsequently incorporated in revised 11-3, submitted to EPA for approval on August 27, 1981. On June 1, 1982, EPA reproposed action on revised 11-3, and proposed approval of 5(b).

Action: Approval of 4(b)

(c) *Oven Door Emissions.*—This section sets forth inspection procedures for determining compliance with Section 2(f) visible emissions limitations.

Discussion: On July 3, 1980, EPA proposed to disapprove the June 19, 1979 version of this section of APC 9 for a series of specifically enumerated deficiencies which were unrelated to 4(c). EPA received no public or State, comments on 4(c) following this rulemaking. On June 1, 1982, EPA proposed action to conditionally approve 11-3. No deficiencies were noted in 4(c), and no additional comments were received.

Action: Approval of 4(c).

(d) This paragraph sets forth test methods for determining the amount of particulate matter emitted from a facility subject to a grain loading or process weight limitation. The methodology to be utilized is U.S. EPA Reference Methods 1-5, Appendix A of 40 CFR Part 60.

Discussion: On July 3, 1980, EPA proposed to disapprove the June 19, 1979 version of this section of APC 9 because, *inter alia*, Section 4(d) contained a typographical error in the citation to U.S. EPA Reference Methods 1-5.

The regulation cited Appendix B as the controlling method, but the correct citation was intended to be Appendix A. In addition, EPA noted that the regulation permitted the Board to approve alternate procedures other than Reference Methods 1-5 for determining the amount of particulate matter emitted from a facility. EPA indicated that such a provision ignored the language of 40 CFR 51.6(d) which obligates a State to submit to U.S. EPA any State action which purports to modify a SIP requirement. EPA stated that to correct this deficiency, Indiana had to make a committment to ensure that any alternative Board testing procedures be submittted to U.S. EPA as a SIP revision. On October 7, 1980, the State of Indiana committed to correct the typographical error in the citation to Reference Methods 1-5. No other comments were received. On August 27, 1981, the State submitted to EPA for approval a revised Rule 11-3 wherein the typographical error had been corrected from Appendix B to Appendix A. On June 1, 1982, U.S. EPA reproposed action on 11-3 including the revision to 4(d) which corrected the typographical error. EPA indicated that the State had corrected the typographical error to reference Appendix A of 40 CFR Part 60. However, it was stated that the deficiency regarding submitting alternate test procedures as SIP revisions had not been corrected, and EPA proposed to conditionally approve 4(d) on the condition that the State made a commitment during the comment period to ensure that alternative Board testing procedures were submitted to EPA as SIP revisions.

On September 1, 1982, the Board committed to add language to Section 4(d) which would require that any alternative test method approved by the Board would be submitted to U.S. EPA as a SIP revision. No further comments were received on this provision.

Action: Approval of 4(d), with the understanding that the State must promulgate a revision to Section 4(d) to add language requiring that any alternative test method approved by the Board would be submitted to U.S. EPA as a SIP revision.

(4)(e) *Gas Collector Main Emissions.*—This paragraph provides an inspection procedure for determining compliance at gas collector mains with the visible emissions limitations in Section 2(e).

Discussion: See the discussion under § 2(e).

Action: Approval of 4(e).

Section 5. Compliance Schedules.—This section provides that compliance schedules for precarbonization towers, pushing, quenching and underfire stacks are to be determined pursuant to Rule 6–1. Compliance schedules for charging, charge port lids, offtake piping, gas collector mains and oven doors are to be determined by schedules contained in 11–3, with certain enumerated exceptions.

Discussion: See the discussion and action in 2(b) regarding the acceptability of the compliance schedules for sources covered by 2(b),(c), (d), (e) and (f) of 11–3.

In its June 1, 1982 proposed rulemaking, EPA noted that Section 4(a) of Rule 6–1 generally requires the meeting of certain increments and a demonstration of compliance by December 31, 1981. Under Section 4(b) of 6–1, the Board may grant further extensions up to December 31, 1982, only where: (1) The source demonstrates that compliance with the interim or final dates is not possible and (2) the source submits a letter of intent, which includes a schedule of dates culminating in the December 31, 1982 compliance date. Any such alternative plan must be incorporated into the source's permit and submitted to U.S. EPA as a SIP revision.

Under Section 4(d) of Rule 6–1, the Board can establish alternative compliance schedules in certain situations where the State promulgates new or more stringent rules. Such extensions are to be granted in accordance with Section 4(b), which requires the submission of these extensions as SIP revisions. At the time these alternative plans are submitted to U.S. EPA, the Agency will review them to ensure that they are consistent with the Act.

Also in the June 1, 1982 rulemaking EPA noted that the Clean Air Act requires the achievement of NAAQS as expeditiously as practicable, but in no event later than December 31, 1982. EPA interprets 5(b) to permit the Board to extend certain compliance schedules, but in no event to allow such extensions to contravene the requirements of the Clean Air Act.

Action: Approval of Section 5.

Section 6. SIP Revision.—This section provides that any exemption given or revision granted to a source by the Board in accordance with Section 2(h)(1), dealing with the quenching operation, shall be submitted to EPA as a SIP revision.

Discussion: No deficiencies were cited regarding this section in either the July 3, 1980 or June 1, 1982 proposed rulemaking actions on the coke battery regulation. No comments were received on this section.

Action: Approval of Section 6.

Conclusion: EPA's rulemaking action on Rule 325 IAC 11–3 is summarized in Table I of this notice. Because of the deficiency noted in Section 2 (h) of 11–3, growth restrictions in Indiana non-attainment areas (other than Porter County) containing coke battery sources will remain in effect, in accordance with the requirements of § 110 (a)(2)(I) of the Clean Air Act.

Under Executive Order 12291 (Order) EPA must judge whether a regulation is "Major" and, therefore subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a Major regulation because it primarily approves provisions which were developed by the State and are currently applicable to sources covered by this action. It also disapproves certain provisions which are currently in force in the State. These disapprovals do not constitute major regulations because the iron and steel sources in the State will, as of the time of this rulemaking, remain subject to pre-existing TSP limitations. Where EPA is deferring action on certain provisions, existing approved regulations will remain in effect. This final rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur Oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

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

This notice is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: November 29, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

1. Section 52.770 is amended by adding new paragraph (c)(42) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(42) On June 26, 1979, Indiana submitted its coke oven battery regulation, APC 9. On October 6, 1980 Indiana resubmitted this regulation recodified as 325 IAC 11–3. On August 27, 1981, Indiana submitted amendments to 325 IAC 11–3. EPA is taking no action on 325 IAC 11–3–2(a), Pre-Carbonization Emissions. It is taking no action on 325 IAC 11–3–2(i), Underfire Particulate and Sulfur Dioxide Emissions, as it applies to Lake County.

* * * * *

2. Section 52.776 is amended by adding new paragraphs (f) and (g) as follows:

§ 52.776 Control strategy: particulate matter.

* * * * *

(f) 325 IAC 11–3–2(f), (as amended on August 27, 1981) is not approved as it applies to Lake and Marion Counties, insofar as it does not meet the requirements of Section 172(b)(3) of the Clean Air Act.

(g) 325 IAC 11–3–2(g) and 11–3–2(h) (as amended on August 27, 1981) are disapproved insofar as they do not meet

the requirements of Section 110(a)(2)(D) of the Clean Air Act.

* * * * *

[FR Doc. 83-32438 Filed 12-2-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-4-FRL 2483-3]

Hazardous Waste Management Programs; South Carolina; Interim Authorization Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Approval of state hazardous waste management program.

SUMMARY: The State of South Carolina has applied for Interim Authorization Phase II, Component C. EPA has reviewed South Carolina's application for Phase II, Interim Authorization Component C, and has determined that South Carolina's hazardous waste program is substantially equivalent to the Federal program covered by Component C. The State of South Carolina is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program covered by Component C in lieu of the Federal program.

EFFECTIVE DATE: Interim Authorization Phase II, Component C, for South Carolina shall become effective on December 6, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE. Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) The Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous waste, standards for owners and operators of treatment, storage and disposal facilities, and requirements for State Programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the July 26, 1982, **Federal Register** (47 FR 32373), the Environmental Protection Agency announced that States could apply for Component C of Phase II of Interim Authorization. Component C published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting facilities that dispose hazardous waste in waste piles, surface impoundments, land treatment, and landfills.

A full discription of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 271, Subpart F, (46 FR 8298) January 26, 1982, and (47 FR 32373) July 26, 1982.

The State of South Carolina received Interim Authorization for Phase I on February 25, 1981, and Interim Authorization for Phase II, Components A & B, on November 3, 1982.

Draft Application

The State of South Carolina submitted its draft application for Phase II, Component C, Interim Authorization on November 24, 1982. After detailed review, EPA identified minor concerns and transmitted comments to the State on January 31, 1983, for its consideration. Some of the issues raised by EPA follow.

EPA requested that South Carolina submit a checklist which indicated which standards will be followed for land disposal permitting, that the MOA reference the specific federal requirements to be imposed, and that the Attorney General certify that the State has the authority to issue and enforce land disposal permits. State officials resolved these issues through submitting a checklist for equivalence delineating those areas where South Carolina would use permit conditions to conform to federal requirements, by referencing in the MOA the specific federal requirements to be imposed, and by certification of the Attorney General that the State has the necessary authority to enforce land disposal permits.

EPA also requested the State to update its permitting procedures by stating in the Attorney General's statement that South Carolina statutes and regulations set procedures for permitting land disposal facilities. Additionally, the Attorney General's statement had to include a paragraph stating that applications for land disposal permits contain information substantially equivalent to pertinent parts required at 40 CFR 270.10, 270.13, 270.14, 270.29 and 270.61-270.63. State officials revised the Attorney General's statement to include these revisions concerning permitting procedures and land disposal permit applications.

Finally, since South Carolina has no non-sudden liability insurance coverage requirements, the State had to commit in the MOA to place owners and operators of land disposal facilities on a phased-in compliance schedule for meeting this requirement. The State would notify facilities of the compliance date for providing this coverage as a permit condition. State officials incorporated into the MOA new language on the phased-in compliance schedule for facilities to provide non-sudden liability insurance coverage.

Final Application

On May 16, 1983, South Carolina submitted to EPA a Final Application for Interim Authorization, Phase II, Component C, under RCRA. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of South Carolina's Hazardous Waste Management Program.

EPA comments were forwarded to the State on July 7, 1983. No *major* questions were raised in the comments. The comments requested minor clarification and correction to the application.

By letter dated March 16, 1983, the State responded satisfactorily to the issues raised by EPA.

Public Hearing and Comment Period

As noticed in the **Federal Register** on July 6, 1983 (48 FR 31056), EPA gave the public until August 8, 1983, to comment on the State's application. EPA issued a public notice for a hearing in Columbia,

South Carolina on August 8, 1983, if significant public interest was expressed.

EPA, Region IV, received two requests for a hearing and on August 8, 1983, the public hearing was held. Oral comments expressed at the hearing and written comments received prior to the hearing indicated no opposition to the State being authorized for Phase II, Component C.

In late July region IV learned that South Carolina had enacted legislation which prohibited treatment, storage, or disposal in South Carolina of hazardous waste generated in a State which bans treatment, storage, or disposal of that waste in that State. Initially this provision, which restricts the interstate flow of hazardous waste by violating 40 CFR 271.4(a), was construed to be an impediment to the State's ability to receive interim authorization for Component C. Consequently, authorization for this Component was delayed until a satisfactory resolution between EPA and the State was reached. EPA has reconsidered its initial position on this provision and has determined that Federal regulations concerning State restrictions on the interstate flow of hazardous waste apply only to final authorization. Therefore, South Carolina's eligibility for interim authorization should not be affected because the State meets all applicable regulatory requirements in 40 CFR 271.121 through 271.137.

Decision

EPA has reviewed South Carolina's complete application for Interim Authorization Phase II, Component C, and has determined that the state program is substantially equivalent to Phase II, Component C, of the Federal program as defined in 40 CFR Part 123, Subpart F, as amended at 47 FR 32373 (July 26, 1982). In accordance with section 3006(c) of RCRA and implementing regulations, South Carolina is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program for permitting the construction and operation of facilities that dispose of hazardous waste in lieu of the Federal program.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians—lands reporting requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: October 7, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-32439 Filed 12-5-83; 8:45 am]

BILLING CODE 65-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-1 and 1-16

[FPR Amdt. 234]

Cancellation of Requirement for Reports on Identical Bids

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: This amendment cancels the requirement for reporting identical bids received under formal advertising or small business restricted advertising procedures. The basis for the revision is Executive Order 12430 (July 6, 1983) which revoked Executive Order 10936 (April 24, 1961). The intended effect is to eliminate an agency reporting requirement which has proved to be ineffective and which consumes resources that could be employed more effectively to prevent antitrust violations.

EFFECTIVE DATE: December 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank T. Van Lierde, Office of Federal Acquisition and Regulatory Policy, Office of Acquisition Policy (202-523-4768).

List of Subjects

41 CFR 1-1

Administrative practices and procedures, Environmental protection, Government procurement, Labor surplus areas, Minority businesses, Recycled material, and Small business.

41 CFR 1-16

Government procurement and procurement forms.

Accordingly, 41 CFR Parts 1-1 and 1-16 are amended as follows:

1. The authority citation for 41 CFR Parts 1-1 and 1-16 reads as follows:

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

PART 1-1—GENERAL

2. The table of contents for Part 1-1 is amended to remove Subpart 1-1.16 in its entirety and designate it reserved as follows:

Subpart 1-1.16—[Reserved]

Subpart 1-1.9—Reporting Possible Antitrust Violations

3. Section 1-1.901 is amended to remove paragraph (c) as follows:

§ 1-1.901 General

* * * * *

(c) [Removed]

Subpart 1-1.16—Reports of Identical Bids

4. Subpart 1-1.16 is removed in its entirety and is designated reserved as follows:

Subpart 1-1.16—[Reserved]

PART 1-16—PROCUREMENT FORMS

5. The table of contents for Part 1-16 is amended to remove the following two entries:

Sec.
1-16.903 [Removed]
1-16.903-DJ-1500 [Removed]

6. Sections 1-16.903 and 1-16.903-DJ-1500 are removed as follows:

§ 1-16.903 [Removed]

§ 1-16.903-DJ-1500 [Removed]

Dated: November 22, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-32408 Filed 12-5-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6491

[LA-0164168]

Partial Revocation of Reclamation Project Withdrawals; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will revoke eight Departmental orders insofar as they affect 39,718.23 acres of public land withdrawn for the Colorado River Storage and Yuma Projects in California. This action will restore 15,536.30 acres to surface entry and mining. Another 800 acres will be opened to mining but will remain closed to surface entry for the Picacho Land and Wildlife Management Area. The remaining 23,381.93 acres lie within the Fort Mohave or Chemehuevi Indian Reservation or are privately owned and are not affected by this action. All the public lands involved have been and continue to be open to mineral leasing.

EFFECTIVE DATE: January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, (916) 484–4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Orders dated July 2, 1902, August 26, 1902, September 8, 1903, February 19, 1929, June 4, 1930, March 26, 1931, October 16, 1931, and October 23, 1936, withdrawing public lands for the Colorado River Storage and Yuma Projects, are hereby revoked insofar as they affect the following described lands:

San Bernardino Meridian

T. 11 N., R. 21 E.,
- Sec. 4, lot 1;
- Sec. 10, lot 1;
- Sec. 11, lot 1;
- Sec. 14, lots 1 to 8, inclusive, W½NW¼;
- Sec. 23, lots 1 to 10, inclusive, NE¼NE¼;
- Sec. 26, lots 1 to 8, inclusive, NE¼, E½ NW¼;
- Sec. 35, lots 2 to 7, inclusive, S½S½ (now described as lots 8 to 15, inclusive);
- Tracts 39 and 43.

T. 9 N., R. 22 E.,
- Sec. 2;
- Sec. 11;
- Sec. 14.

T. 10 N., R. 22 E.,
- Sec. 9;
- Sec. 16;
- Sec. 21;
- Sec. 35 (now described as lots 1 to 6, inclusive, S½N½, S½).

T. 1 N., R. 24 E.,
- Sec. 25;
- Sec. 26;
- Sec. 33;
- Sec. 34;
- Sec. 35.

T. 4 N., R. 24 E.,
- Secs. 2 to 6, inclusive.

T. 5 N., R. 24 E.,
- Sec. 2;
- Sec. 3;
- Secs. 10 to 15, inclusive;
- Secs. 22 to 24, inclusive;
- Sec. 26;
- Sec. 27;
- Sec. 31, lot 1, NE¼, NE¼NW¼;
- Sec. 32, N½, N½SW¼, SE¼;
- Sec. 33;
- Sec. 34;
- Sec. 35.

T. 1 N., R. 25 E.,
- Sec. 19;
- Sec. 20, lots 5, 6, 7, and 8, and those unsurveyed portions lying west of the Colorado River Indian Reservation;
- Sec. 29, lots 3 and 4, and that unsurveyed portion lying west of the Colorado River Indian Reservation;
- Sec. 30, lots 3 and 4, and that unsurveyed portion lying west of the Colorado River Indian Reservation;
- Sec. 31, lots 5, 6, 7, and 8, and that unsurveyed portion lying west of the Colorado River Indian Reservation.

T. 4 N., R. 25 E.,
- Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
- Sec. 20;
- Sec. 21;
- Secs. 26 to 30, inclusive;
- Secs. 33 to 36, inclusive.

T. 9 S., R. 21 E.,
- Sec. 3, lots 1 and 2 of the NE¼, E½ of lot 2 of the NW¼; lot 1 of the NW¼ and S½;
- Sec. 9;
- Sec. 10, E½, E½W½, NW¼NW¼;
- Sec. 15, E½, E½NW¼;
- Sec. 16;
- Sec. 21;
- Sec. 22, NE¼, NE¼SE¼;
- Sec. 27.

T. 10 S., R. 21 E.,
- Sec. 22, NE¼.

T. 5 S., R. 23 E.,
- Sec. 27, SE¼SE¼;
- Sec. 31;
- Sec. 33, lot 6;
- Sec. 34, NE¼NW¼.

T. 1 S., R. 24 E.,
- Sec. 6, W½;
- Sec. 8, S½;
- Sec. 17, N½ and SE¼.

The areas described aggregate 39,718.23 acres in Imperial, Riverside, and San Bernardino Counties.

2. At 10 a.m. on January 4, 1984, the following described public lands shall be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 4, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

San Bernardino Meridian

T. 11 N., R. 21 E.,
- Sec. 4, lot 1;
- Sec. 10, lot 1;
- Sec. 11, lot 1;
- Sec. 14, lots 1 to 8, inclusive, W½NW¼;
- Sec. 23, lots 1 to 10, inclusive, NE¼NE¼;
- Sec. 26, lots 1 to 8, inclusive, NE¼, E½ NW¼;
- Sec. 35, lots 2 to 7, inclusive, S½S½ (now described as lots 8 to 15, inclusive).

T. 9 N., R. 22 E.,
- Sec. 2, lots 1 to 4, inclusive, S½N½, S½;
- Sec. 11;
- Sec. 14.

T. 10 N., R. 22 E.,
- Sec. 9, lots 2, 4, and 5 of the SE¼, lot 6, W½, and SW¼SE¼;
- Sec. 35, lots 1, 2, 5, and 6, S½N½, S½.

T. 1 N., R. 24 E.,
- Sec. 25;
- Sec. 26;
- Sec. 33;
- Sec. 34;
- Sec. 35, N½, W½SW¼.

T. 4 N., R. 24 E.,
- Sec. 2 to 6, inclusive.

T. 5 N., R. 24 E.,
- Sec. 31, lot 1, NE¼, NE¼NW¼;
- Sec. 32, N½, N½SW¼, SE¼;
- Sec. 33.

T. 1 N., R. 25 E.,
- Sec. 19;
- Sec. 20, lots 5, 6, 7, and 8, and those unsurveyed portions lying west of the Colorado River Indian Reservation;
- Sec. 29, lots 3 and 4, and that unsurveyed portion lying west of the Colorado River Indian Reservation;
- Sec. 30, lots 3 and 4, and that unsurveyed portion lying west of the Colorado River Indian Reservation;
- Sec. 31, lots 5, 6, 7 and 8, and that unsurveyed portion lying west of the Colorado River Indian Reservation.

T. 9 S., R. 21 E.,
- Sec. 9;
- Sec. 21;

T. 5 S., R. 23 E.,
- Sec. 27, SE¼SE¼;
- Sec. 31, lots 4, 5, 6, and 7 NE¼, N½SE¼

The areas described aggregate 15,536.30 acres in Imperial and Riverside Counties.

3. Of the lands listed in paragraph 1, the following remain withdrawn from applications under the nonmineral public land laws, and from disposition under the desert land laws for the Picacho Land and Wildlife Management area (Public Land Order No. 2818).

T. 9 S., R. 21 E.,
- Sec. 27.

T. 10 S., R. 21 E.,
- Sec. 22, NE¼.

The areas described aggregate 800.00 acres in Imperial County.

4. Of the lands listed in paragraph 1, 23,381.93 acres are privately owned or lie within the Fort Mohave and

Chemehuevi Valley Indian Reservations and are not subject to disposition under the public land laws.

5. The surface estate of lots 1, 2, 3, E½NW¼ and NE¼SW¼, sec. 31, T. 5 S., R. 23 E., SBM, described in paragraph 1, has been conveyed from United States ownership pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended, 44 Stat. 741; 43 U.S.C. 869–869–4. Unless and until appropriate regulations are issued, this land will not be open to location under the United States mining laws (30 U.S.C. Ch. 2); however, it has been and remains open to applications under the mineral leasing laws.

6. At 10 a.m. on January 4, 1984, the lands described in paragraphs 2 and 3 will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including adverse possession under 30 U.S.C. Section 38, shall vest no rights against the the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

All the lands described in paragraphs 2 and 3 have been and remain open to mineral leasing.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-32397 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6492

[U-31071]

Public Land Order No. 6389, Correction; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This action corrects the land description in Public Land Order No. 6389 of May 16, 1983.

EFFECTIVE DATE: December 6, 1983.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801–524–4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of lands in paragraph 1 of Public Land Order No. 6389 of May 16, 1983, in FR Doc. 83–13902 in the issue of Tuesday, May 24, 1983 (48 FR 23225), is corrected as follows:

Salt Lake Meridian, Utah

1. On page 23226, second column, fiftieth line should read:

Secs. 14 to 16, 17, N½NE¼, part of S½NE¼, NW¼.

2. On page 23228, second column, sixty-first line should read:

Sec. 4, S½S½.

3. On page 23228, third column, forty-first line should read:

T. 32 S., R. 14 E.

4. On page 23228, third column, thirty-first line should read:

Sec. 13, all;
Sec. 20, SE¼;
Sec. 21, S½;
Sec. 22, S½;
Sec. 23, S½;
Sec. 24, all.

5. On page 23229, third column, fifty-fifth line should read:

Secs. 6 to 8, 16 to 18 incl.

6. On page 23230, first column, fifty-second and fifty-third lines are deleted.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: November 25, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-32396 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 83-372; FCC 83-507]

Deregulation of Mobile Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Effective January 1, 1984, mobile telephone customer premises equipment (CPE) will be deregulated. Procedures for the deregulation are being established also. This action conforms the deregulation of mobile CPE with the deregulation of all other telephone customer premise equipment. The deregulation of mobile telephone customer premises equipment encourages the competitive provision of mobile CPE, removes advantages accruing to carriers over other vendors of mobile CPE and fosters an environment in which consumers will have a maximum array of choices.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Gerald M. Goldstein, Esquire, (202) 632–6444.

List of Subjects in 47 CFR Part 22

Mobile radio service.

Report and Order; Proceeding Terminated

In the matter of Deregulation of Mobile Customer Premises Equipment; CC Docket No. 83–372.

Adopted: November 1, 1983.
Released: November 7, 1983.

By the Commission.

1. On April 28, 1983, the Commission issued a Notice of Proposed Rulemaking (NPRM), released April 28, 1983, 48 FR 20952, (May 10, 1983) proposing to deregulate mobile telephone customer premises equipment (CPE).[1] We proposed to deregulate this equipment to conform with the ongoing deregulation of other CPE that we began in the *Second Computer Inquiry*[2] *and followed in Cellular Communications Systems Report and Order, (Cellular Systems)* 86 FCC 2d 469 (1981). Our objectives in this proceeding are to encourage the competitive provision of mobile CPE, and to create a marketplace that provides consumers a diverse selection of equipment. In this decision, we are deregulating all mobile telephone CPE. By a *Further Notice of Proposed Rulemaking* (*FNPRM*), adopted concurrently today, we propose a plan

[1] The Commission's proposal applied to mobile telephone equipment used in all services licensed under Part 22 of the rules: domestic public land mobile radio service (including airborne), rural radio service and offshore telecommunications service. As stated in the Discussion Section, *infra*, new equipment is defined as that equipment acquired or manufactured after January 1, 1984. All other in-place or existing equipment is classified as embedded.

[2] Amendment of § 64.702 of the Commission's rules and regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), reconsideration, 84 FCC 2d 50 (1980), further reconsideration, 88 FCC 2d 512 (1981) (Further Reconsideration Order), *aff'd sub nom.* CCIA v. FCC, 693 F. 2d 198 (D.C. Cir. 1982) *cert. denied sub nom.* Louisiana Public Service Commission v. FCC, 103 S. Ct. 2109 (1983).

for removing embedded mobile telephone CPE from tariffed service.

Comments

2. Almost all of those filing comments supported the complete deregulation of mobile telephone CPE.[3] The comments submitted by Wisconsin were typical. Wisconsin emphasized that the primary rationale for deregulation of conventional CPE, that there exist numerous suppliers and a competitive marketplace for CPE, applies equally to mobile telephone CPE.[4]

3. While generally favoring the proposed deregulation of mobile telephone CPE, two commenters opposed deregulation of CPE used for rural radio service. The Public Utilities Commission of the State of California (California) stated that rural radio is a primary telephone service, and that telephone companies should be responsible for the reliability and continuity of this service. GTE Service Corp. (GTE) for the most part supported this view, and added that the high costs associated with rural radio mobile CPE required that state regulators and telephone companies have the option to spread these costs among other telephone company customers.

4. AT&T in support of deregulating rural radio mobile CPE indicated that there are several manufacturers of this type of equipment, which is being offered with various options at competitive prices. Additionally, AT&T observed that rural radio service consists of subscribers other than those located in isolated locations, and stated that a significant number of subscribers are from large mining, forestry and ranching concerns.

5. On the issue of how the Commission should proceed with the mechanics of deregulated mobile CPE, most of the comments took the position that deregulation should follow the bifurcated approach taken in the *Second Computer Inquiry*. GTE suggested that new mobile CPE could be removed from the regulated rate base as of January 1, 1984, while embedded CPE would remain tariffed over a transition period through 1987.

6. Telocator recommended that the Commission immediately order detariffing of all mobile CPE (the so-called "flash-cut" approach), both new and embedded. This flash-cut approach, Telocator contended, would not be associated with any of the problems identified in the *Second Computer Inquiry*. GTE stated that flash-cut deregulation would not be workable because it would pose a serious problem of achieving capital recovery on embedded mobile CPE investment.[5]

Discussion

7. In following our general policy of deregulating terminal equipment, we believe that the provision of mobile telephone CPE should be deregulated. In accordance with of our statutory authority, which we discussed in detail in the *Second Computer Inquiry*, 77 FCC 2d at 452–57, and *Cellular Systems, supra* at 503–505, we are preempting state regulation of mobile telephone CPE pursuant to Sections 2(a), 2(b) and 301 of the Communications Act of 1934, as amended. See *North Carolina Utilities Commission* v. *FCC*, 552 F.2d 1036 (4th Cir. 1977) *cert. denied* 434 U.S. 874 (1977).[6] Moreover, we find that there is no substantial reason to treat conventional mobile CPE differently from cellular and landline CPE. *Cellular Systems, supra*, at 469. Accordingly, we have decided to include mobile CPE within the general policies adopted in the *Second Computer Inquiry*.

8. We proposed to deregulate all mobile CPE, inclusive of rural radio mobile CPE. Based upon the record before us, we are not persuaded at this time that an exception should be carved out to exempt rural radio mobile CPE from our plan to deregulate all mobile telephone CPE. The policy consideration of the *Second Computer Inquiry* to promote a competitive marketplace for consumers is of paramount importance. The two commenting parties opposing this aspect of deregulation, GTE and California,[7] failed to present any concrete examples of how carrying forward this policy would be detrimental to the public interest in rural radio mobile service.[8] In fact no state indicated that deregulating rural radio mobile CPE would in any way adversely affect the viability or availability of that service.

9. Consistent with the procedures established in the *Second Computer Inquiry*, mobile telephone CPE will be deregulated and detariffed on a bifurcated basis, being divided into new and embedded equipment. We shall select January 1, 1984, as the effective date for deregulating mobile radio telephone CPE. New mobile CPE, which shall include all CPE acquired by a carrier or manufactured by an affiliated entity after January 1, 1984, may no longer be tariffed. Carriers may still provide embedded mobile CPE, which is defined as existing in-place "equipment or inventory which is tariffed or otherwise subject to the jurisdictional separations process" under tariff during a transition period. *Further Reconsideration Order, supra*, at 526. Such equipment will remain subject to tariff until the manner of detariffing it is determined. Telocator advocated a flash-cut rather than a bifurcated approach to deregulation of mobile telephone CPE. None of the points raised by Telocator persuade us to depart from our decision in the *Second Computer Inquiry*, 84 FCC 2d at 67, 88 FCC 2d at 519, to follow a bifurcated approach. In the *Second Computer Inquiry* we weighed the alternatives to bifurcation, and we concluded on balance that the public interest would best be served by adopting a bifurcated plan. *Id.*

10. In the *Second Computer Inquiry*, specifically in the Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), Notice of Proposed Rulemaking, Docket No. 81–893, 48 FR 29891, released June 21, 1983, we sought comments on the mechanism and procedures for the removal of other embedded CPE from tariff. Since that proceeding did not encompass the issue of embedded mobile CPE, we are issuing a Further Notice of Proposed Rulemaking (FNPRM) to afford the public the opportunity to comment on whether the specific procedures proposed in Docket No. 81–893 should

[3] Those favoring complete deregulation were the Public Service Commission of Wisconsin (Wisconsin), Pacific Paging, Inc., American Telephone and Telegraph Co. (AT&T), Waterway Communications System, Inc., (Waterway), and Telocator Network of America (Telocator).

[4] Wisconsin also noted that it has consistently challenged the FCC's authority to preempt state regulatory authority over CPE.

[5] Ancillary issues regarding the scope of the rulemaking and whether paging equipment was previously deregulated were raised in the comments. These will be discussed below.

[6] None of the commenters persuasively challenged our proposed assertion of this authority and we will not repeat our detailed discussion of the foundation for this authority that we stated in the Second Computer Inquiry and Cellular Systems, *supra*.

[7] California argued that CPE used for rural radio mobile service has characteristics of a transmission apparatus and must not be deregulated. In the Second Computer Inquiry, we concluded that CPE "is a severable commodity from the provision of transmission services." 77 FCC 2d at 466. California fails to show why this is not also the case for rural mobile CPE. In addition GTE asserted that rural mobile radio CPE is virtually a necessity rather than an optional service. We previously rejected the analogous argument that a basic telephone handset is an indispensible part of a carrier's complete telephone service, and will do likewise in this proceeding. *Id.*

[8] In the event that there is any detrimental impact upon rural radio service, upon the proper showing that the public interest would be served, we would consider granting individualized waiver requests.

also be applied to embedded mobile CPE.[9]

11. Finally, we must also address the ancillary issues raised by Telocator and Waterway. Telocator commented that it was not clear from the *Second Computer Inquiry* that paging equipment was deregulated as stated in the *NPRM*. Based upon this alleged ambiguity, Telocator asserted that many radio common carriers have not deregulated paging equipment and would therefore be subject to sanctions by the Commission for their non-compliance. We have considered these views and reaffirm our decision in the *NPRM* that paging equipment was deregulated by the *Second Computer Inquiry*. *NPRM, supra*, at n. 8. However, in light of the uncertainty expressed by Telocator, we shall not impose any sanctions on those carriers who presently have not detariffed their paging equipment. Instead, all paging equipment acquired between January 1, 1983, and January 1, 1984, which has not already been detariffed, will be treated as embedded CPE.[10] Paging equipment which is inventoried or put into service on or after January 1, 1984, will be considered new equipment and therefore shall be offered on a detariffed basis. Next we turn to the issue raised by Waterway. It advocated that this proceeding should also embrace CPE utilized in maritime common carrier service licensed under Part 81 of the rules. We reject this contention as our *NPRM* was finely focused upon the sole issue of deregulating mobile telephone CPE and did not include deregulation of any other type of CPE.

Regulatory Flexibility Act—Final Analysis

12. *Need for action and objective.* This action conforms the deregulation of mobile CPE with the deregulation of all other telephone customer premise equipment. The objectives are to encourage the competitive provision of mobile CPE, to remove advantages accruing to carriers over other vendors of mobile CPE, and to foster an environment in which consumers will have the maximum array of choices.

13. *Issues raised by the Public In Response to the Initial Analysis.* None.

14. *Alternatives that would lessen impact.* We have considered alternatives to deregulation of mobile CPE and conclude that the alternatives to deregulation would be burdensome.

15. Authority for this rulemaking is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

16. Accordingly, it is ordered, that the provisions adopted in this *Order* for the deregulation of mobile telephone customer premises equipment will become effective 30 days after publication of this document in the **Federal Register.**

17. It is further ordered, that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-32375 Filed 12-5-83; 8:45 am]

BILLING CODE 6712-01-M

[9] GTE's comments concerning capital recovery and what accounting methodology should be adopted for the deregulation of mobile CPE will be addressed in the FNPRM.

[10] All paging equipment that is acquired or put into service now through January 1, 1984, may be treated as new or embedded CPE, at the discretion of the carrier.

Proposed Rules

Federal Register
Vol. 48, No. 235
Tuesday, December 6, 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 58

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document revises the following three United States Standards: United States Standards for Grades of Nonfat Dry Milk (Spray Process), United States Standards for Grades of Nonfat Dry Milk (Roller Process), and United States Standards for Instant Nonfat Dry Milk.

The revisions provide editorial and format changes which modernize the standards. The editorial changes provide terminology currently in use by the dairy industry and which correctly identify the agency after recent departmental reorganizations. The format changes will provide consistency with other U.S. grade standards for dairy products. No substantive changes in grade classification criteria are proposed. These revisions have been developed with the cooperation of the American Dry Milk Institute.

DATE: Comments are due on or before February 6, 1984.

ADDRESS: Written comments (two copies) should be filed with the Hearing Clerk, Room 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard W. Webber, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7473.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule under criteria contained therein. Also pursuant to this Executive Order it has been determined there will be no effect on trade sensitive activities.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the revisions proposed herein would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because this proposal will not alter the user fee structure utilized when USDA grading service is provided.

In accordance with the United States Department of Agriculture policy for regulatory review, the Dairy Standardization Section conducted a review of the United States Standards for Grades of Nonfat Dry Milk (Spray and Roller process) and the United States Standards for Instant Nonfat Dry Milk. The objectives of the review were to obtain both current and historical information to support the criteria of the standards as written, or to support any changes necessary for modernization of the standards that might become apparent from the review. The review was designed to obtain as much information as possible from as many varied sources and interested parties as possible.

The review consisted of several phases. First, a computer search of the National Agricultural Library (NAL) resources pertaining to nonfat dry milks was conducted. From this search, a number of articles and texts were selected having a direct bearing on the standards review. Next, the dry milk industry was contacted for input via the American Dry Milk Institute. Also contacted were other interested parties who may use the products and, therefore, would have an interest in the quality criteria.

Nonfat dry milk (NDM) is a major product of the dairy industry. NDM production for 1982 was 1,397.2 million pounds, an increase of 6.3% over 1981. Domestic sales of NDM for the same period were 431.6 million pounds, a decrease of 5.3% under 1982. The balance of production, 965.6 million pounds, was purchased by Commodity Credit Corporation (CCC) under the dairy price support program. The NDM standards are widely utilized by both industry and USDA for CCC purchases.

The major domestic sales end-uses for 1982, by volume in millions of pounds, are: dairy, 140.3; packaged for home use, 118.2; prepared dry mixes, 41.0; bakery, 38.4; chemical and pharmaceuticals, 38.0; confectionery, 22.9; meat processing, 9.5; insitutions, 4.7; animal feed, 3.9; soup manufacturers, 1.3; soft drink bottlers, 0.9; and all other uses, 12.5. These standards are also widely used by industry for buying and selling between commercial users of the products.

Generally NDM (spray and roller process) is used as an ingredient for a variety of dairy and food products. One of the primary uses of instant NDM is in the home as a beverage product and therefore has product characteristics that enhance its solubility in cold water.

The United States Standards for Instant Nonfat Dry Milk currently in effect were established in October 1970. The current United States Standards for Grades of Nonfat Dry Milk (Spray and Roller process) were last revised in April 1973. During the ensuing years, a number of technological advances have been accomplished within the dairy industry, new market trends and preference have emerged, and improved milk quality has gained increased significance. However, analysis of the indepth review of the three standards has shown that the established grading criteria have withstood the test of time and continue to adequately describe and classify into grades the nonfat dry milk currently produced.

This proposal is confined to editorial and format changes to modernize the standard and to make them consistent with other U.S. grade standards for dairy products. No changes in grade criteria are proposed.

USDA grade standards are voluntary standards that are developed to assist the orderly marketing process. Dairy plants are free to choose whether or not to use these grade standards. USDA grade standards for dairy products have been developed to identify the degrees of quality in the various products. Quality in general refers to the usefulness, desirability, and value of a product—its marketability—but the precise definition of quality depends on the individual commodity. When nonfat dry milks are graded, the regulations governing the grading services of

manufactured or processed dairy products, which require all graded dairy products to be produced in a USDA approved plant, would be in effect. These regulations also require a charge for grading services provided by USDA.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

In consideration of the foregoing, it is proposed to amend 7 CFR Part 58 by revising subpart L (§§ 58.2525 through 58.2541), subpart M (58.2550 through 58.2562), and subpart V (58.2750 through 58.2759) to read as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS [1]

* * * * *

Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process) [1]

Definitions

Sec.
58.2525 Nonfat dry milk

U.S. Grades

58.2526 Nomenclature of U.S. grades.
58.2527 Basis for determination of U.S. grades.
58.2528 Specifications for U.S. grades.
58.2529 U.S. grade not assignable.
58.2532 Test methods.

Explanation of Terms

58.2537 Explanation of terms.

Supplement to U.S. Standards for grades of Nonfat Dry Milk (Spray Process); U.S. Heat Treatment Classification

58.2538 Basis for obtaining Heat Treatment Classification.
58.2539 Nomenclature of U.S. Heat Treatment Classification.
58.2540 Basis for determination of U.S. Heat Treatment Classification.
58.2541 Test method; whey protein nitrogen.

Subpart M—United States Standards for Grades of Nonfat Dry Milk (Roller Process) [1]

Definitions

58.2550 Nonfat dry milk.

U.S. Grades

58.2551 Nomenclature of U.S. grades.
58.2552 Basis for determination of U.S. grades.
58.2553 Specifications for U.S. grades.
58.2554 U.S. grade not assignable.
58.2558 Test Methods.

Explanation of Terms

58.2562 Explanation of Terms.

[1] Compliance with these standards does not excuse failure to comply with the provision of the Federal Food, Drug, and Cosmetic Act.

Subpart U—United States Standards for Instant Nonfat Dry Milk [1]

Definitions

Sec.
58.2750 Instant nonfat dry milk.

U.S. Grade

58.2751 Nomenclature of the U.S. grade.
58.2752 Basis for dertermination of the U.S. grade.
58.2753 Specifications for U.S. grade.
58.2754 U.S. grade not assignable.
58.2756 Test methods.
58.2759 Explanation of terms.

Authority: Agricultural Marketing Act of 1946, sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624.

Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process) [2]

Definitions

§ 58.2525 Nonfat dry milk

(a) "Nonfat dry milk" is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 percent by weight of moisture. The fat content shall not exceed 1½ percent by weight.

(b) The term "milk" when used in this subpart means fresh, sweet milk produced by healthy cows, that has been pasteurized before or during the manufacture of the nonfat dry milk. [3]

U.S. Grades

§ 58.2526 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

U.S. Extra.
U.S. Standard.

§ 58.2527 Basis for determination of U.S. grades.

(a) The U.S. grades of nonfat dry milk—spray process—are determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, milkfat content, moisture content, scorched particle content, solubility index and titratable acidity.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

[2] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[3] Nonfat dry milk covered by these standards shall not contain buttermilk, whey, other diary derived products or any added preservative, neutralizing agent or other chemical.

§ 58.2528 Specifications for U.S. grades.

(a) *U.S. Extra grade.* U.S. Extra grade nonfat dry milk shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (Applies to the reconstituted product). Shall be sweet, pleasing and desirable but may posses the following flavors to a slight degree: chalky, cooked, feed and flat.

(2) *Physical appearance.* Shall possess a uniform white to light cream natural color; free from lumps except those that readily break up with very slight pressure, and practically free from visible dark particles. The reconstituted product shall be free from graininess.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Milkfat content.* Not more than 1.25 percent.

(5) *Moisture content.* Not more than 4.0 percent.

(6) *Scorched particle content.* Not more than 15.0 mg.

(7) *Solubility index.* Not more than 1.2 ml., except that product classified as U.S. High Heat may have not more than 2.0 ml.

(8) *Titratable acidity.* Not more than 0.15 percent.

(b) *U.S. Standard grade.* U.S. Standard grade shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (Applies to the reconstituted product). Should possess a fairly pleasing flavor but may possess the following flavors to a slight degree: bitter, oxidized, stale, storage, utensil, and scorched; the following to a definite degree: chalky, cooked, feed, and flat.

(2) *Physical appearance.* May possess a slight unnatural color, free from lumps except those that break up readily under slight pressure, and reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 100,000 per gram standard plate count.

(4) *Milk content.* Not more than 1.50 percent.

(5) *Moisture content.* Not more than 5.0 percent.

(6) *Scorched particle content.* Not more than 22.5.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Bitter		Slight.
Chalky	Slight	Definite.
Cooked	Slight	Definite.
Feed	Slight	Definite.
Flat	Slight	Definite.
Oxidized		Slight
Scorched		Slight.
Stale		Slight.
Storage		Slight.

TABLE I.—CLASSIFICATION OF FLAVOR—Continued

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Utensil		Slight.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade	U.S. standard grade
Dry product:		
Lumpy	Very slight	Slight.
Unnatural		Slight.
Visible dark particles	Very slight	Slight.
Reconstituted product: Grainy		Slight.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
(1) Bacterial estimate; standard plate count per gram	50,000	100,000
(2) Milkfat content; percent	1.25	1.50
(3) Moisture content; percent	4.0	5.0
(4) Scorched particle content; mg.	15.0	22.5
(5) Solubility index; ml	1.2	2.0
(6) Titratable acidity; percent	0.15	0.17

(7) *Solubility index.* Not more than 2.0 ml. except that product classified as U.S. High Heat may have not more than 2.5 ml.

(8) *Titratable acidity.* Not more than 0.17 percent.

§ 58.2529 U.S. grade not assignable.

Nonfat dry milk shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Standard grade.

(b) Has a direct microscopic clump count exceeding 100 million per gram.

(c) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(d) Produced in a plant which is not USDA approved.

§ 58.2532 Test methods.

All required tests shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918–103 (dry milk product series), Dairy Grading and Standardization Branch, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

Explanation of Terms

§ 58.2537 Explanation of terms.

(a) *With respect to flavor*—(1) *Slight.* Detectable only upon critical examination.

(2) *Definite.* Easily detectable but not intense.

(3) *Bitter.* Similar to taste of quinine.

(4) *Chalky.* A tactual type of flavor lacking in characteristic milk flavor.

(5) *Cooked.* Similar to a custard flavor and imparts a smooth aftertaste.

(6) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the nonfat dry milk.

(7) *Flat.* Lacking characteristic sweetness or full flavor.

(8) *Oxidized.* A flavor resembling cardboard and sometimes referred to as "cappy" or "tallowy".

(9) *Scorched.* A more intensified flavor than "cooked" and imparts a burnt aftertaste.

(10) *Stale, storage.* Lacking in freshness and imparting a "rough" aftertaste.

(11) *Utensil.* A flavor suggestive of improper or inadequate washing and sanitation of milking machines, utensils or factory equipment.

(b) *With respect to physical appearance*—(1) *Practically free.* Present only upon very critical examination.

(2) *Reasonably free.* Present only upon critical examination.

(3) *Very slight pressure.* Lumps fall apart with only light touch.

(4) *Slight pressure.* Only sufficient pressure to disintegrate the lumps readily.

(5) *Natural color.* A color that is white or light cream.

(6) *Grainy.* Minute particles of undissolved powder appearing on the surface of a glass or tumbler in a thin film.

(7) *Unnatural color.* A color that is more intense than light cream and is brownish, dull or grey-like.

(8) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(9) *Visible dark particles.* The presence of scorched or discolored specks.

Supplement to U.S. Standards for Grades of Nonfat Dry Milk (Spray Process); U.S. Heat Treatment Classification

§ 58.2538 Basis for obtaining heat treatment classification.

Heat treatment classification is not a U.S. Grade requirement except in cases when the higher solubility index specified for U.S. High Heat product is permitted. In all other instances, product submitted for USDA grading may be analyzed for heat treatment classification upon request of the applicant and the results shown on the grading certificate. Heat treatment classification will be made available only upon a U.S. graded product.

§ 58.2339 Nomenclature of U.S. Heat Treatment Classification.

The nomenclature of U.S. Heat Treatment Classification is as follows:

U.S. High-heat.
U.S. Medium-heat.
U.S. Low-heat.

§ 58.2540 Basis for determination of U.S. Heat Treatment Classification.

The whey protein nitrogen test shall be used in determining the heat treatment classification as follows:

(a) *U.S. High-heat.* The finished product shall not exceed 1.5 mg. undenatured whey protein nitrogen per gram of nonfat dry milk.

(b) *U.S. Low-heat.* The finished product shall show not less than 6.0 mg. undenatured whey protein nitrogen per gram of nonfat dry milk.

(c) *U.S. Medium-heat.* The finished product shall show undenatured whey protein nitrogen between the levels of "high-heat" and "low-heat". (1.51 to 5.99 mg.).

§ 58.2541 Test method; whey protein nitrogen.

The method used shall be the modified Harland-Ashworth Method as outlined in "Standards for Grades of Dry Milks Including Methods of Analysis", available from the American Dry Milk Institute Inc; 130 N. Franklin Street, Chicago, IL 60606.

Subpart M—United States Standards for Grades of Nonfat Dry Milk (Roller Process) [4]

Definitions

§ 58.2550 Nonfat dry milk.

(a) "Nonfat dry milk" is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 percent by weight of moisture. The fat content shall not exceed 1½ percent by weight.

(b) The term "milk" when used in this subpart means fresh, sweet milk produced by healthy cows, that has

[4] Compliance with these Standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

been pasteurized before or during the manufacture of the nonfat dry milk.[5]

U.S. Grades

§ 58.2551 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

U.S. Extra.
U.S. Standard.

§ 58.2552 Basis for determination of U.S. grades.

(a) The U.S. grades of nonfat dry milk—roller process—are determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, milkfat content, moisture content, scorched particle content, solubility index and titratable acidity.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

§ 58.2553 Specifications for U.S. grades.

(a) *U.S. Extra grade.* U.S. Extra grade nonfat dry milk shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (Applies to the reconstituted product). Shall be sweet and desirable, but may possess the following flavors to a slight degree: chalky, feed, flat, and scorched.

(2) *Physical appearance.* Shall possess a uniform white to light cream natural color; free from lumps except those that break up readily with very slight pressure and reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Milkfat content.* Not more than 1.25 percent.

(5) Moisture content. Not more than 4.0 percent.

(6) *Scorched particle content.* Not more than 22.5 mg.

(7) *Solubility index.* Not more than 15.0 ml.

(8) *Titratable acidity.* Not more than 0.15 percent.

(b) *U. S. Standard grade.* U.S. Standard grade nonfat dry milk shall conform to the following requirements (See Tables I, II, III):

(1) *Flavor* (Applies to the reconstituted product). Should possess a fairly desirable flavor but may possess the following to a slight degree: bitter, oxidized, stale, storage and utensil; the following to a definite degree: chalky, feed, flat, and scorched.

(2) *Physical appearance.* May possess a slight unnatural color; free from lumps except those that break up readily under slight pressure and moderately free from visible dark particles. The reconstituted product shall be reasonably free from graininess.

(3) *Bacterial estimate.* Not more than 100,000 per gram standard plate count.

(4) *Milkfat content.* Not more than 1.50 percent.

(5) *Moisture content.* Not more than 5.0 percent.

(6) *Scorched particle content.* Not more than 32.5 mg.

(7) *Solubility index.* Not more than 15.0 ml.

(8) *Titratable acidity.* Not more than 0.17 percent.

§ 58.2554 U.S. grade not assignable.

Nonfat dry milk shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Standard grade.

(b) Has a direct microscopic clump count exceeding 100 million per gram.

(c) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(d) Produced in a plant which is not USDA approved.

§ 58.2558 Test Methods.

All required tests shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918-103 (dry milk product series), Dairy Grading and Standardization Branch, AMS, U.S. Department of Agriculture, Washington, DC 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Bitter		Slight.
Chalky	Slight	Definite.
Feed	Slight	Definite.
Flat	Slight	Definite.
Oxidized		Slight.
Scorched	Slight	Definite.
Stale		Slight.
Storage		Slight.
Utensil		Slight.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of Physical appearance characteristics	U.S. extra grade	U.S. standard grade
Dry product:		
Lumpy	Very slight	Slight.
Unnatural color		Slight.
Visible dark particles	Slight	Definite.
Reconstituted product: Grainy	Slight	Slight.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
(1) Bacterial estimate, standard plate count per gram	50,000	100,000
(2) Milkfat content; percent	1.25	1.50
(3) Moisture content; percent	4.0	5.0
(4) Scorched particle content; mg	22.5	32.5
(5) Solubility index: ml	15.0	15.0
(6) Titratable acidity; percent	0.15	0.17

Explanation of Terms

§ 58.2562 Explanation of Terms.

(a) *With respect to flavor*—(1) *Slight.* Detectable only upon critical examination.

(2) *Definite.* Easily detectable but not intense.

(3) *Bitter.* Similar to taste of quinine.

(4) *Chalky.* A tactual type of flavor, lacking in characteristic milk flavor.

(5) *Feed.* Feed flavors (such as alfalfa, sweet-clover, silage, or similar feed) in milk carried through into the nonfat dry milk.

(6) *Flat.* Lacking characteristic sweetness or full flavor.

(7) *Oxidized.* A flavor resembling cardboard and sometimes referred to as "cappy" or "tallowy".

(8) *Scorched.* A more intensified flavor than "cooked" and imparts a burnt aftertaste.

(9) *Stale, storage.* Lacking in freshness and imparting a "rough" aftertaste.

(10) *Utensil.* A flavor suggestive of improper or inadequate washing and sanitation of milking machines, utensils, or factory equipment.

(b) *With respect to physical appearance*—(1) *Practically free.* Present only upon very critical examination.

(2) *Reasonably free.* Present only upon critical examination.

(3) *Moderately free.* Discernible upon careful examination.

(4) *Very slight pressure.* Lumps fall apart with only light touch.

(5) *Slight pressure.* Only sufficient pressure to disintegrate lumps readily.

(6) *Natural color.* A color that is white or light cream.

[5] Nonfat dry milk covered by these standards shall not contain buttermilk, whey, other dairy derived products, or any added preservative, neutralizing agent or other chemical.

(7) *Grainy.* Minute particles of undissolved powder appearing on the surface of a glass or tumbler in a thin film.

(8) *Unnatural color.* A color that is more intense than light cream and is brownish, dull or grey-like.

(9) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(10) *Visible dark particles.* The presence of scorched or discolored specks.

Subpart U—United States Standards for Instant Nonfat Dry Milk [6]

Definitions

§ 58.2750 Instant nonfat dry milk.

(a) Instant nonfat dry milk is nonfat dry milk which has been produced in such a manner as to substantially improve its dispersing and reconstitution characteristics over that produced by the conventional processes.

(b) (1)"Nonfat dry milk" is the product resulting from the removal of fat and water from milk and contains the lactose, milk proteins and milk minerals in the same relative proportion as in the fresh milk from which made. It contains not over 5 percent by weight of moisture. The fat content is not over 1½ percent by weight, unless otherwise indicated.

(2) The term "milk" when used in this subpart means fresh, sweet milk produced by healthy cows, that has been pasteurized before or during the manufacture of the instant nonfat dry milk.[7]

U.S. Grade

§ 58.2751 Nomenclature of the U.S. grade.

The nomenclature of the U.S. grade is U.S. Extra.

§ 58.2752 Basis for determination of the U.S. grade.

The U.S. grade of instant nonfat dry milk is determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, coliform count, milkfat content, moisture content, scorched particle content, solubility index, titratable acidity and dispersibility.

§ 58.2753 Specifications for U.S. grade.

(a) U.S. Extra grade shall conform to the following requirements (See Tables I, II, and III):

(1) *Flavor* (applies to reconstituted form). Shall be sweet, pleasing and desirable but may possess the following flavors to a slight degree: chalky, cooked, feed, flat.

(2) *Physical appearance.* Shall possess a uniform white to light cream natural color; shall be reasonably free-flowing and free from lumps except those that readily break up with very slight pressure.

(3) *Bacterial estimate.* Not more than 30,000 per gram standard plat count.

(4) *Coliform count.* Not more than 10 per gram.

(5) *Milkfat content.* Not more than 1.25 percent.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade
Chalky	Slight.
Cooked	Slight.
Feed	Slight.
Flat	Slight.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade
Color	White to light cream.
Lumps	Very slight pressure.
Free flowing	Reasonably.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade
Bacterial estimate, standard plate count per gram	30,000
Coliform count, per gram	10
Milkfat content; percent	1.25
Moisture content; percent	4.5
Scorched particle content; mg	15.0
Solubility Index; ml	1.0
Titratable acidity; percent	0.15
Dispersibility; percent	85.0

(6) *Moisture content.* Not more than 4.5 percent.

(7) *Scorched particle content.* Not more than 15.0 mg.

(8) *Solubility index.* Not more than 1.0 ml.

(9) *Titratable acidity.* Not more than 0.15 percent.

(10) *Dispersibility.* Not less than 85.0 percent.

§ 58.2754 U.S. grade not assignable.

Instant nonfat dry milk shall not be assigned the U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Extra grade.

(b) Has direct microscopic clump count exceeding 75 million per gram.

(c) The phosphatase test. When run at the option of the Department or when requested by the buyer or seller, shows more than 4 micrograms of phenol per milliliter of reconstituted instant nonfat dry milk.

(d) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities.

(e) Produced in a plant which is not USDA approved.

§ 58.2756 Test methods.

All required tests, and optional tests when specified, shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918–103 (dry milk product series), Dairy Grading and Standardization Branch, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

(1) *Dispersibility.* Dispersibility shall be determined by the modified Moats—Dabbah Method.

(2) *Phosphatase activity.* Residual phosphatase shall be determined using Method II, "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

§ 58.2759 Explanation of terms.

(a) *With respect to flavor*—(1) *Slight.* Detectable only upon critical examination.

(2) *Chalky.* A tactual type of flavor lacking in characteristic milk flavor.

(3) *Cooked.* Similar to a custard flavor and imparts a smooth aftertaste.

(4) *Feed.* Feed flavors (such as alfalfa, sweet-clover, silage, or similar feed) in milk carried through into the instant nonfat dry milk.

(5) *Flat.* Lacking characteristic flavor.

(b) *With respect to physical appearance*—(1) *Reasonably free-flowing.* Pours in a fairly constant, uniform stream from the open end of a tilted container or scoop.

(2) *Very slight pressure.* Lumps fall apart with only light touch.

(3) *Lumps.* Loss of powdery consistency but not caked into hard chunks.

(4) *Natural color.* A color that is white or light cream.

(Agricultural Marketing Act of 1946, sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624)

[6] Compliance with these standards does not excuse failure to comply with the provision of the Federal Food, Drug, and Cosmetic Act.

[7] Instant nonfat dry milk covered by these standards shall not contain buttermilk, whey, other dairy derived products, or any added preservative, neutralizing agent or other chemical.

Done at Washington, D.C. on November 28, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-32213 Filed 12-5-83; 8:45 am]

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Animal and Plant Health Inspection Service

7 CFR Part 355

[Docket No. 82-328]

Endangered Species Regulations Concerning Terrestrial Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to establish enforcement regulations pertaining to the importation, exportation, and reexportation of terrestrial plants under the Endangered Species Act of 1973, as amended, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The proposed regulations appear to be necessary to implement enforcement responsibilities assigned to the Secretary of Agriculture. This document also gives notice of a public hearing concerning this proposal.

DATES: Written comments must be received on or before February 6, 1984. Public hearings will be held on January 10, 1984, in Miami, Florida; and January 12, 1984, in Los Angeles, California.

ADDRESSES: Written comments should be submitted to T. O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, between 8:00 and 4:30 p.m., Monday through Friday, except holidays. The public hearings will be held at the following locations: (1) On January 10 at the Ramada Hotel, Miami International Airport, Mangrove Room, 3941 Northwest 22nd Street, Miami, Florida; and (2) on January 12, 1984, the Sheraton Plaza La Reina Hotel, Room 204, 6101 West Century Boulevard, Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8248.

SUPPLEMENTARY INFORMATION:

Public Hearing

A representative of the Animal and Plant Health Inspection Service will preside at each of the public hearings described under **"ADDRESSES."** Any interested person may appear and be heard in person, by attorney, or by other representative.

The hearing will begin at 10 a.m. and is scheduled to end at 5 p.m. local time. However, the hearing may be terminated at any time after it begins if all of those persons at the hearing who desire an opportuntiy to speak have been heard. Persons who wish to speak are requested to register with the presiding officer prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 9 a.m. to 10 a.m. Those registered persons will he heard in the order of their registration. However, any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard. It is requested that two copies of any written statements that are presented be provided to the presiding officer at the hearing. If the number of preregistered persons and other participants in attendance at the hearing warrants it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Background

The United States Department of Agriculture (referred to below as USDA) is responsible for enforcement of the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*; referred to below as the Act), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (MIAS 8249, 27 U.S.T. 1087; referred to below as the Convention) which pertain to the importation, exportation, or reexportation of terrestrial plants. This document sets forth proposed regulations designed to implement these enforcement responsibilities.

Within USDA, the responsibility for enforcing provisions of the Act pertaining to the importation, exportation and reexportation of terrestrial plants has been delegated to Plant Protection and Quarantine (referred to below as PPQ), a unit within the Animal and Plant Health Inspection Service (referred to below as APHIS) of USDA.

The Act provides that plants may be imported, exported, or reexported only at designated ports or under certain limited circumstances at nondesignated ports. Under section 9 of the Act (16 U.S.C. 1538) the Secretary of the U.S. Department of the Interior (referred to below as USDI) is responsible for designating ports and determining under what circumstances plants will be allowed to be imported at nondesignated ports.

The proposed regulations in this document closely interrelate and must be read in conjunction with the USDI regulations in 50 CFR Chapter I. Specifically, the USDI regulations in 50 CFR 17.12 list those species of plants determined by USDI to be endangered or threatened or similar in appearance to endangered or threatened species under the Act, and in 50 CFR 23.23 list the species of plants and plant parts and derivatives protected under the Act because they are listed in Appendices I, II, and III of the Convention. Also, USDI regulations in 50 CFR Parts 17 and 23 provide that certain plants listed in 50 CFR 17.12 or 23.23 may not be imported, exported, or reexported without a certificate, permit, or other documentation. In accordance with USDA's responsibility under the Act and Convention, the proposed regulations in this document complement the USDI regulations in 50 CFR Chapter I by providing a mechanism for determining compliance with USDI requirements and for taking appropriate action in those instances when such requirements are not met.

For informational purposes, it is proposed to provide two footnotes for the heading of the proposed part. The first footnote explains that under the provisions of section 11 of the Act (16 U.S.C. 1540) it is unlawful for any person to knowingly violate any provision of the Act, any provision of a permit or certificate issued under the Act, or any provision of a regulation promulgated under the Act; and that section 11 of the Act (16 U.S.C. 1540) provides for criminal, civil and administrative penalties for any such violation. The second footnote explains that PPQ also administers programs under the Lacey Act Amendments of 1981 (16 U.S.C. 3401 *et seq.*), the Plant Quarantine Act, as amended (7 U.S.C. 151 *et seq.*), the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*), which contain authority for additional prohibitions and restrictions on the importation of plants. As indicated in the footnote, regulations containing prohibitions and restrictions pursuant to these authorities are set forth in other parts of 7 CFR Chapter III.

Purpose

Proposed § 355.1 is for informational purposes. It explains that the Secretary of Agriculture is responsible for the enforcement of the provisions of the Act and Convention which pertain to the importation, exportation, and reexportation of terrestrial plants. It further explains that the proposed regulations would interrelate with regulations of USDI in 50 CFR Chapter I.

Definitions

Proposed § 355.2 contains definitions of certain terms used in the proposed rules. The terms "Act," "Convention," "Import (imported, importing, importation)," "Person," "Reexport (reexported, reexportation)," "Secretary," and "United States" are defined in accordance with definitions and authority set forth in the Act and Convention. Definitions of the terms "Deputy Administrator," "Inspector," and "Plant Protection and Quarantine" are set forth for informational purposes. Also, definitions of the terms "terrestrial plants"and "Engage in business as an importer, exporter, or reexporter of terrestrial plants" (discussed below) are included in the proposed definition section. In accordance with the intent of the Act, the term "terrestrial plants" is defined to mean any plant, including epiphytic plants, except marine plants.

Permission To Engage in Business

Under sections 3(15) and 9(d) of the Act (16 U.S.C. 1532(15) and 1538(d)), any person who wishes to engage in business as an importer, exporter, or reexporter of terrestrial plants is required to obtain permission from the Secretary of Agriculture prior to engaging in such business. This permission has been granted informally to all such persons. However, it appears that permission to engage in business should be formalized in the regulations as explained below.

This permission requirement was established to allow the implementation of a system for identifying those persons who engage in the business of importing, exporting, or reexporting terrestrial plants listed in 50 CFR 17.12 or 23.23 of USDI's regulations, and to gather information from such persons for enforcement purposes under the Act. It further appears that these purposes could be accomplished best by establishing a permit system requiring submission of enforcement information as a prerequisite to the issuance of the permit. Accordingly, it is proposed to require each person who wishes to engage in the business of importing, exporting, or reexporting terrestrial plants listed in 50 CFR 17.12 or 23.23, to obtain a general permit prior to engaging in such business.

As explained in a footnote to the heading of proposed § 355.11, this permit is proposed to be named a "general permit" in order to avoid confusion with permits obtained from USDI pursuant to 50 CFR Chapter 1 to accompany the importation, exportation, or reexportation of plants under USDI regulations, and to avoid confusion with permits obtained from PPQ for the importation of plants under the Plant Quarantine Act (7 U.S.C. 151 *et. seq.*) and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.)*

The term "engage in business as an importer, exporter, or reexporter of terrestrial plants" is defined in the proposed definition section to mean to import, export, or reexport terrestrial plants for the purpose of gain or profit. The phrase "for gain or profit" is intended to cover those activities commonly thought to be included by the term "engage in business." Further the definition is consistent with the intent of Congress under the Act, to protect endangered and threatened species of plants by regulating the trade of these species.

It does not appear that there is any valid purpose for requiring persons not engaged in the business of importing, exporting, or reexporting terrestrial plants listed in 50 CFR 17.12 or 23.23 to obtain such a general permit because there does not appear to be a need to identify them or to gather information from them for enforcement purposes under the Act. Therefore, it is provided in proposed § 355.10 that any person engaged in business as an importer, exporter, or reexporter of terrestrial plants, but not engaged in such business involving terrestrial plants listed in 50 CFR 17.12 or 23.23, would be granted permission to engage in such business by a general statement set forth in proposed § 355.10 without any further action on the part of such person or the government.

Also, it should be noted for informational purposes that persons who import, export, or reexport terrestrial plants listed in 50 CFR 17.12 or 23.23, but who do not conduct such activities for "gain or profit," are not required under the Act or proposed regulations to obtain a general permit.

Proposed § 355.11(b) provides that prior to the issuance of a general permit an application containing the following information must be made to Regulatory Services Staff, PPQ:

(1) Date of application;

(2) Applicant's name, mailing address, and telephone number;

(3) If the applicant is an individual, the business affiliation, if any, having to do with the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(4) If the application is in the name of a business or if the applicant is affiliated with a business which imports, exports, or reexports terrestrial plants listed in 50 CFR 17.12 or 23.23, the form of the business, e.g., corporation, firm, partnership; and the name and address of each partner, officer, director, holder, owner of 10 percent or more of the voting stock, and employee in a managerial or executive capacity;

(5) The address of all of applicant's business locations where activities relating to terrestrial plants listed in 50 CFR 17.12 or 23.23 would be conducted;

(6) A brief description of the nature of the applicant's business as it relates to engaging in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(7) Any address where books or records concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 would be kept;

(8) Name, address, and telephone number of the persons authorized to make records or plant inventories available for examination by inspectors or other authorized representatives of the Secretary of Agriculture; and

(9) Certification by signature of the applicant (must be a partner or officer if the applicant is a business) or the following statement: "I hereby certify that the information in this application is complete and accurate to the best of my knowledge and belief."

It appears that this information would be helpful for enforcement purposes by identifying those persons (including business organizations) responsible for activities that would be regulated under the proposed regulations, and to identify the location where plants and records subject to inspection would be kept. Also, a footnote is added to explain that application forms are available without charge from Regulatory Services Staff, PPQ, APHIS, USDA, Federal Building, Hyattsville, MD 20782, or local offices, which are listed in telephone directories.

Proposed § 355.11(c) provides that the cost of applying for a general permit would be $70. Section 11(f) of the Act (16 U.S.C. 1540(f)) authorizes the charging of reasonable fees for the expenses to the government connected with permits authorized by the Act, including expenses for processing applications and conducting reasonable inspections.

Under the proposed rule, such a general permit must be obtained prior to engaging in business. It is estimated that approximately 1,400 persons would apply for a general permit during the first two year period after the promulgation of final regulations. It appears that, based on the number of applications, it would be necessary to charge $70 for each application (regardless of whether a general permit would be granted) to cover the costs involved for processing such applications and to conduct a sufficient amount of inspections to assure the accuracy of information provided in the general permit application.

Proposed § 355.11(d) provides that a general permit shall be issued if the applicant has submitted an application containing all information requested in proposed § 355.11(b), if the applicnat has paid the general permit fee in accordance with proposed § 355.11(c), and if a general permit of the applicant or anyone responsibly connected with the business of the applicant is not denied, suspended, or revoked pursuant to proposed § 355.11(i). There does not appear to be any reason to deny the issuance of a general permit under conditions other than those specified.

Proposed § 355.11(e) provides that an applicant would be notified in writing by PPQ of the approval or denial of any request for a general permit. It further provides that if a general permit is denied the notification shall state the reason therefor. The applicant would be allowed to submit reasons why a general permit should not be denied, without submitting a new application, if such reasons were submitted to PPQ in writing within 20 days following the receipt of notification of the denial.

Proposed § 355.11(f) provides that an applicant would have an opportunity to correct a deficiency in the application if the application were incomplete or improperly executed, and that the application would be considered abandoned if the deficiency were not corrected within 20 days following the receipt of notification of the deficiency. These provisions appear to provide an applicant a reasonable opportunity to submit all necessary information and to answer any questions concerning eligibility for a general permit.

Proposed § 355.11(g) provides that upon receipt of an application filed with an insufficient fee or without a fee, the application and any fee submitted would be returned to the applicant. It is proposed that one condition of obtaining a general permit would be payment of the fee, and it appears that this policy is the most feasible method of assuring payment for processing the application.

Proposed § 355.11(h) provides that a general permit would be valid for 2 years unless suspended or revoked pursuant to proposed § 355.11(i) and that a new application must be submitted for the renewal of the general permit. This would require any person who engages in business as an importer, exporter, or reexporter of listed terrestrial plants to reapply for a general permit every 2 years. It appears that this would help assure that the information necessary to obtain a general permit would be updated on a regular basis.

Proposed § 355.11(i) sets forth criteria for the denial of an application for a general permit, and for the suspension or revocation of a general permit which has been issued under the Act. Proposed § 355.11(i) provides that an application for a general permit may be denied and a general permit may be suspended or revoked at any time by the Deputy Administrator if he or she determines that (1) any requirement of the proposed subpart has not been complied with, (2) the applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been convicted criminally or had a civil penalty assessed, for violation of the Act or of any regulation, permit, or certificate issued under the Act, or (3) the applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been convicted of any crime involving fraud, bribery, or extortion or any other crime involving or lack of integrity needed for the conduct of operations concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23. These criteria appear to be adequate and necessary to provide a mechanism for denying, suspending, or revoking general permits in those cases where it has been demonstrated that operations have been conducted in a manner which indicates a lack of integrity necessary to assure compliance with the proposed requirements in this subpart. Proposed procedural requirements concerning such actions are also set forth in proposed § 355.11(i). The procedural requirements, among other things, provide that such action to deny, suspend, or revoke a general permit may be taken after opportunity for a hearing, except that a denial, suspension, or revocation may become effective upon oral or written notification pending the outcome of a hearing if it is determined by the Deputy Administrator that the applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been convicted of a criminal violation of the Act, or of any regulation, permit, or certificate issued under the Act. These provisions based on convictions are specifically authorized under section 11(b)(2) of the Act (16 U.S.C. 1540(b)(2)).

The term "responsibly connected with the business of the permittee" is proposed to be defined as anyone who is a partner, officer, director, holder or owner of 10 percent or more of its voting stock, or employee in a managerial or executive capacity. This would help assure that persons found to be unfit to engage in business as importers, exporters, or reexporters of listed terrestrial plants would not be allowed to formulate, or be in a position to affect, policies for a business subject to the proposed regulations.

Also, it should be noted that it is anticipated that the general permit requirements would be made effective approximately four months after the other provisions in the proposed rule become effective. This appears to be necessary to allow a sufficient amount of time for actions to be taken on general permit applications.

Marking and Notification Requirements for Plants Imported, Exported or Reexported by Means Other Than Mail

Proposed § 355.20 provides marking and notification requirements for those nonmailed terrestrial plants that are required to be accompanied by documentation under 50 CFR Parts 17 or 23 of the USDI regulations at the time of importation, exportation, or reexportation.

Also, a footnote is added to explain that certain terrestrial plants listed in Appendices, I, II, or III of the Convention (50 CFR Part 23) or listed by the USDI to be endangered or threatened or similar in appearance to endangered or threatened species (50 CFR Part 17) are required to be accompanied by documentation at the time of importation, exportation, or reexportation (see 50 CFR Chapter I); and to explain that plants are allowed to be imported, exported, or reexported only at ports authorized for such purpose by the U.S. Department of the Interior pursuant to section 9(f) of the Act (16 U.S.C. 1538(f)).

For such plants imported, exported, or reexported by means other than mail, the requirements of proposed § 355.20(a) would be met if the outer container of the plants or if a tag, invoice, or packing list accompanying the plants, were to bear plainly and correctly the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country or locality where collected from the wild or where produced from cultivated stock,

(3) Name and address (in the United States if exported or reexported) of shipper, owner, or person shipping or forwarding the plants,

(4) Name and address (in the United States if imported) of consignee,

(5) Identifying shipper's mark and number, and

(6) Serial number and type (e.g. permit, certificate) of document issued under the Act or Convention for the importation, exportation, or reexportation of the plants.

The proposed provisions appear to be necessary to help inspectors locate and identify at ports those nonmailed plants that would be subject to inspection and other provisions of the proposed regulations, to allow PPQ to contact persons for the purpose of obtaining any necessary clarifications concerning the plants, and to provide a means for checking whether any accompanying documentation for the plants is authentic.

Proposed § 355.20(b) provides that promptly upon arrival at the port of import of any terrestrial plant which is imported by means other than mail and which may be imported under 50 CFR Part 17 or 23 only if accompanied by documentation, the importer shall notify PPQ of the arrival and of the genus and species of the plant by such means as a manifest, Customs entry document, commercial invoice, waybill, broker's document, or notice form provided for that purpose.

Proposed § 355.20(c) provides that prior to the exportation or reexportation of any terrestrial plant which is to be exported or reexported by means other than mail and which may be exported or reexported under 50 CFR Part 17 or 23 only if accompanied by documentation, the exporter or reexporter shall notify PPQ of the intented exportation or reexportation and of the genus and species of the plant by such means as a manifest, commercial invoice, waybill, broker's document, or notice form provided for that purpose.

It appears that these provisions in proposed § 355.20 (b) and (c) are necessary for notification of inspectors at ports of the presence of plants subject to inspection and other requirements. The notification for plants moved by means other than mail also would help the inspector locate and identify plants subject to the proposed requirements of this document. Further, it appears that the notification of arrival of plants arriving by means other than mail could be accompanied by any document which would specify what plants are contained in the shipment, such as those documents specified in the proposed rule.

Marking and Mailing Requirements for Plants Imported, Exported, or Reexported by Mail

Proposed § 355.21 provides marking and mailing requirements for those mailed terrestrial plants that are required to be accompanied by documentation under 50 CFR Part 17 or 23 of the USDI regulations at the time of importation, exportation, or reexportation. Also, a footnote is added to explain that the terrestrial plants listed in Appendices, I, II, or III of the Convention or determined by the USDI to be endangered or threatened or similar in appearance to endangered or threatened species are required to be accompanied by documentation at the time of importation, exportation or reexportation (see 50 CFR Chapter I); and to explain that plants are allowed to be imported, exported, or reexported only at ports authorized for such purpose by the USDI pursuant to section 9(f) of the Act (16 U.S.C. 1538(f)). This is the same footnote that is added for proposed § 355.20.

For such plants imported by mail, the requirements for proposed § 355.21(a) would be met if the package containing the plants were mailed to PPQ (at a port authorized for such purpose by USDI pursuant to section 9(f)) of the Act (16 U.S.C. 1538(f)); and were accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient in the United States, and were to bear plainly and correctly on the outer container the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country or locality where collected from the wild or where produced from cultivated stock,

(3) Name and address of shipper, owner, or person shipping or forwarding the plants,

(4) Serial number and type (e.g. permit, certification) of document issued for the importation, exportation, or reexportation of the plants.

The provisions in proposed § 355.21(a) appear to be necessary to assure that the packages would be sent to PPQ where inspections and other enforcement activities could be accomplished, to allow PPQ to contact persons for the purpose of obtaining any necessary clarifications concerning such plants, and to provide a means for checking whether any accompanying documentation for such plants is authentic. Inclusion of a sheet of paper bearing the name, address, and telephone number of the intended recipient for imported articles would permit PPQ to be able to forward the package to the intended recipient after inspection. Also, inclusion of the telephone number of the intended recipient for mailed articles would permit PPQ to contact the intended recipient for the purpose of obtaining any necessary clarifications for such mailed articles. With respect to movement of articles by means other than mail, it does not appear to be necessary to provide a telephone number of the intended recipient because the representative or agent of the intended recipient would be available at the port to provide any necessary clarifications.

Under proposed § 355.21(b), such plants exported or reexported by mail would be required to be mailed to PPQ (at a port authorized for such purpose by USDI pursuant to section 9(f) of the Act (16 U.S.C. 1538(f)) and be accompanied with essentially the same information set forth in proposed § 355.21(a) for such plants imported by mail. However, all of the information would be required to be included on the separate sheet of paper within the package. Also, the paper within the package would be required to bear the name, address, and telephone number in the United States of the shipper, owner, or person shipping or forwarding the plants; and the paper would not be required to bear the telephone number of the intended recipient. Further, such plants exported or reexported by mail would also be required to be wrapped in double wrapping, with an unsealed inner wrapping addressed to the foreign recipient and bearing sufficient postage for mailing to the foreign destination.

The provisions in proposed § 355.21(b) appear to be necessary to assure that the package would be sent to PPQ where inspections and other enforcement activities could be accompanied, to allow PPQ to contact persons for the purpose of obtaining any necessary clarifications concerning such plants, to provide a means for checking whether any accompanying documentation for such plants is authentic, and to insure that the plants can be mailed to the foreign destination from the port after inspection.

Validation of Documentation

Proposed § 355.22 provides that documentation for any mailed or nonmailed terrestrial plant which is listed in USDI's regulations in 50 CFR 17.12 or 23.23 and which is required to

be imported, exported, or reexported subject to documentation under 50 CFR Part 17 or 23, must be validated at the port at the time of importation, exportation, or reexportation. It is further provided that validation would be accomplished by the endorsement of the documentation by an inspector when he or she determines that the plant was apparently eligible for importation, exportation, or reexportation in accordance with the provisions of the proposed part and the provisions of 50 CFR Chapter I relating to the Act and Convention. This appears to be helpful in order to make a record that such plant is moved in accordance with the requirements under the proposed regulations and the requirements under the Act and the Convention.

Proposed § 355.22(a) also provides that the documentation for imported plants must be surrendered to the inspector at the time of validation. This allows USDA to forward the documentation to USDI for retention in accordance with the requirements of the Convention. In addition, proposed § 355.22(b) provides that for exported or reexported plants, two copies of the documentation must be submitted for validation, and that one copy must be surrendered to the inspector at the time of validation. One copy of the documentation is for presentation at the foreign destination. The other copy is forwarded by USDA to USDI for retention and is utilized by USDI for compliance purposes and for meeting USDI's obligations under the Convention to maintain records of trade.

Proposed § 355.22(d) provides that in order to obtain validation of documentation, the importer, exporter, or reexporter, or agent thereof shall make available to an inspector:

(1) All shipping documents (including bills of lading, waybills, packing lists and invoices);

(2) All documents required by the Act of Convention; and

(3) The plant being imported, exported, or reexported.

It appears that these proposed requirements would be necessary for an inspector to make a determination as to whether the importation, exportation, or reexportation of a plant is being made in accordance with the Act or Convention, and regulations thereunder.

Recordkeeping, Access, and Reports

Under section 9(d)(2)(A) of the Act (16 U.S.C. 1538)(d)(2)(A)) any person engaged in business as an importer, exporter, or reexporter of plants would be required to keep such records as will fully and correctly disclose each importation, exportation, or reexportation of plants made by the person and the subsequent disposition made by the person of such plants. Also, as noted above, under section 3(15) of the Act (16 U.S.C. 1538(15)) USDA's activities are limited to enforcement activities relating to the importation, exportation, or reexportation of terrestrial plants. In accordance with these authorities, proposed § 355.23 would require each person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR Part 17 or 23 to keep records. The records would be required to include the following information concerning the importation, exportation, or reexportation of terrestrial plants: shipping documents for each shipment of plants imported, exported, or reexported; a description of the form of plants (such as whole live plants, cuttings, seeds, or other specific parts or derivatives of plants); the scientific and common names of the plants; the country or place of origin of the plants; the date and place of importation, exportation, or reexportation of the plants; the number (weight if the plants cannot be quantified by number) and specific location of plants; the date and means of subsequent disposition of the plants; whether by sale, barter, consignment, loan, delivery, destruction, or other means; and names and addresses of persons to whom the plants were disposed, if applicable. It appears that the information specified above would satisfy those requirements of the Act that relate to enforcement activities assigned to USDA.

Proposed § 355.23(b) would require the records referred to in proposed § 355.23(a) to be kept for a period of 5 years after the occurrence of the transactions to which the records relate. The 5-year period is consistent with the statute of limitations for criminal actions that may be based on occurrences relating to such records. In order to complete actions commenced prior to the expiration of the 5-year period, the provisions in proposed § 355.23(b) also provide that the time period may be extended as the Deputy Administrator may require by written notice for purposes of any investigation, litigation, or other proceeding under the Act or proposed regulations.

Under section 9(d)(2)(B) of the Act (16 U.S.C. 1538)(d)(2)(B)) a person engaged in business as an importer, exporter, or reexporter of plants is required at all reasonable times upon notice by a duly authorized representative of the Secretary to afford such representative access to his or her place of business, an opportunity to examine the inventory of plants and the records required to be kept under section 9(d)(2)(A) of the Act, and to copy such records. Proposed § 355.23(c) essentially restates this requirement but limits the scope of the provisions to terrestrial plants in order to be consistent with the enforcement activities assigned to USDA. It provides that the notice requirements would be met by "presentation of credentials by an inspector or other duty authorized representative of the Secretary." Also, it interprets the term "at all reasonable times" to mean "during ordinary business hours of the establisment given notice." Further, to assure that the inspector would have a temporary place to conduct such activities, proposed § 355.23(c) also provides that the use of a room, table or other facilities (other than reproduction equipment) necessary for such examination and copying of records and for such examination of inventory shall be afforded such inspector at the place of business.

Under section 9(d)(2)(C) of the Act (16 U.S.C. 1538(d)(2)(C)) a person engaged in business as an importer, exporter, or reexporter of plants is required to file such reports as the Secretary may require. Pursuant to this authority and the limitation of USDA activities to matters pertaining to terrestrial plants, proposed § 355.23(d) provides that any person engaged in business as an importer, exporter, or reexporter of terrestrial plants, upon written request by the Deputy Administrator, shall submit within 30 days of such request such report as requested concerning any of the information required to be maintained under proposed § 355.23 (a) and (b).

Procedures Relating to Forfeitures

Under the Act, USDA is responsible for implementing forfeiture proceedings against plants, equipment, means of conveyance or other property which was seized under the Act, which is in the possession (actual or constructive) of USDA, and which is subject to forfeiture because of activities pertaining to the importation, exportation, or reexportation of such plants. Section 11(e)(5) of the Act (16 U.S.C. 1540(e)(5)) provides that the provisions of law in 19 U.S.C. 1602 through 1625 relating to forfeitures of vessels apply to forfeiture proceedings under the Act (other than where property is abandoned and a waiver of claim to property is made), insofar as such provisions are applicable and not inconsistent with the provisions of the Act. Accordingly, proposed §§ 355.30 through 355.39 set forth proposed procedures relating to waiver of claim of such property, and proposed procedures

relating to forfeitures for such articles which correspond to the applicable provisions of law in 19 U.S.C. 1602 through 1625.

Also, for informational purposes, a footnote is added to § 355.30 to explain that under section 11(e)(4) of the Act (16 U.S.C. 1540(e)(4)) equipment and means of conveyance are subject to forfeiture upon criminal conviction of a violation pursuant to section 11(b)(1) of the Act (16 U.S.C. 1540(b)(1)), and that a terrestrial plant may be subject to forfeiture regardless of whether a criminal conviction was obtained.

Disposition of Forfeited Property

USDI is responsible for the disposition of property forfeited under the Act, including property subject to enforcement activities by USDA. Accordingly, these proposed regulations do not contain provisions relating to the disposition of forfeited property.

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the USDA, it has been determined that this proposed rule would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In developing this proposed rule several alternatives were considered and rejected. These alternatives are discussed below.

Under sections 3 (15) and 9(d) of the Act (16 U.S.C. 1532 (15) and 1538(d)), any person who wishes to engage in business as an importer, exporter, or reexporter of terrestrial plants is required to obtain permission from the Secretary of Agriculture prior to engaging in such business. In accordance with these provisions, the proposed rule provides that each person who wishes to engage in the business of importing, exporting or reexporting terrestrial plants listed in 50 CFR 17.12 or 23.23, must obtain a general permit prior to engaging in such business. The proposed rule further provides that any person engaged in the business of importing, exporting, or reexporting only nonlisted terrestrial plants would be granted to engage in such business by a general statement set forth in the proposed rule without any further action on the part of such person or the government.

Consideration was given concerning whether (1) to grant blanket permission by regulation to allow any person engaged in the business of importing, exporting, or reexporting terrestrial plants to conduct such activities, (2) to require any person engaged in the business of importing, exporting, or reexporting terrestrial plants to obtain a general permit prior to engaging in such business, or (3) to require only those persons engaged in the business of importing, exporting, or reexporting terrestrial plants listed in 50 CFR 17.12 or 23.23 to obtain a general permit prior to engaging in such business. Alternative (3) is proposed. The proposed general permit system is for the purpose of identifying those persons who for gain or profit would import, export, or reexport terrestrial plants listed in 50 CFR 17.12 or 23.23 of the U.S. Department of the Interior's regulations, and to gather information from such persons for enforcement purposes under the Act. The decision to gather such information only on those persons who for gain or profit import, export, or reexport terrestrial plants protected under the Act is consistent with the congressional intent behind section 9(d) of the Act. It does not appear that the Department could gather the information required by the Act if it adopted alternative (1), because there would be no reporting requirements imposed on anyone; and it appears that alternative (2) would place an unnecessary reporting requirement on persons who do not import, export, reexport listed terrestrial plants and whom the Department does not feel it necessary to regulate for purposes of enforcing the import, export and reexport provisions of the Act.

The proposed rule provides that the cost of applying for a general permit would be $70 per applicant. Under the proposed rule, such a general permit must be obtained prior to engaging in business and would be valid for two years. It is estimated that approximately 1400 persons would apply for a general permit during the first two year period after the promulgation of final regulations. Based on this number of applications, it appears that it would be necessary to charge $70 for each application to cover the cost to USDA involved for processing such applications and to conduct a sufficient amount of inspections to assure the accuracy of the information provided in the general permit applications. Further, it appears that in addition to the $70 application fee (per applicant) it would cost the affected industry a total of approximately $14,000 over each two year period to prepare general permit applications. Accordingly, it is estimated that the total cost to the affected industry for preparing and obtaining the general permit under the proposal for each two year period would be approximately $112,000.

Consideration was given concerning whether (1) to charge the same fee for a general permit for any person who engages in business as an importer, exporter, or reexporter of listed terrestrial plants, or (2) to charge different fees based on volume of business. Alternative (1) is proposed. The $70 fee is based on projected costs for processing applications and conducting inspections. Regardless of the volume of a particular business, it appears that the cost to the Department for issuing the permits and gathering information on a business activity would not vary significantly from business to business. Further $70 is not considered a significant cost, even for small businesses, especially when spread over a two year period, and, therefore, prorating the permit fee based on the size of the business does not appear to be warranted.

The proposed rule provides that a general permit would be valid for 2 years unless suspended or revoked pursuant to specified criteria and that a new application must be submitted for the renewal of a general permit. Consideration was given concerning whether a general permit (1) would be valid for 2 years or (2) would be valid for a longer time period. Alternative (1) is proposed. Consideration was also given concerning whether (1) information contained in the general permit should be required to be updated as changes occur or (2) such information should be required to be updated at the time of application for renewal of a general permit. Alternative (2) is proposed. These alternatives were chosen because it was determined that these alternatives provide the most effective method for assuring that the information necessary to obtain a general permit would be updated on a regular basis. Based on experience with other programs, it appears that it is difficult to gain compliance with requests to update information as changes occur. Further, it appears that the 2 year period would provide a reasonable balance between the need to obtain current information and the need to limit the amount of paperwork imposed on persons required to obtain such a general permit.

The proposed rule further provides for administrative forfeiture proceedings. Under section 11(e) of the Act (16 U.S.C. 1540(e)) USDA is responsible for implementing forfeiture proceedings in accordance with the provisions of 19 U.S.C. 1602 *et seq.* against any property which is seized under the Act, is in possession of USDA and is subject to forfeiture because of illegal activities pertaining to the importation, exportation, or reexportation of terrestrial plants. Under the provisions of 19 U.S.C. 1607, a notice of seizure of property and the intention to forfeit such property shall be published for at least three successive weeks in such manner as the Secretary of Agriculture or his delegate may direct. In this connection, consideration was given concerning whether (1) to require such publication to be accomplished by including the notice in newspapers or (2) to require such publication to be accomplished by posting the notice in a conspicuous place accessible to to the public at the PPQ office nearest the place of seizure. Alternative (2) is proposed. It appears that persons importing, exporting, or reexporting plants would more likely check with PPQ officials concerning the whereabouts and status of plants and other related property rather than search for such information in newspapers.

The proposed rule contains additional provisions that would be required to be met by importers, exporters, or reexporters of protected terrestrial plants. These provisions pertain to marking and notification for such plants moved by means other than mail; marking and mailing for such plants moved by mail; validation; and recordkeeping, access and reports. Most of the marking information is already provided on accompanying documents such as tags, invoices, or packing lists. Also, most affected importers, exporters, and reexporters already maintain a substantial portion of the recordkeeping information that would be required to be maintained if the proposed rule were adopted. It does not appear that any of these provisions would cause a significant increase in costs, except that it is estimated that it would cost the affected industry approximately $72,000 per year to provide additional representation at ports to assure that the proposed notification and validation requirements would be met.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. Based on information compiled by the Department, it is estimated that the overall annual economic impact from this action would be approximately $128,000. Further, based on this information, it is estimated that this economic impact would be shared by approximately 1400 small entities that would be directly affected by this action, and would relate to approximately 10,000,000 plants imported or exported annually by such entities. The retail selling price of each of these plants ranges from approximately $1.50 to thousands of dollars.

Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the information collection provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Written comments concerning information collection provisions should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, D.C. 20503. A duplicate copy of such comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA. See address above.

List of Subjects in 7 CFR Part 355

Imports, Exports, Plants (agriculture), Environmental protection, Endangered and threatened species.

Under the circumstances referred to above, it is proposed to add a new Part 355 to 7 CFR Chapter III to read as follows:

PART 355—ENDANGERED SPECIES REGULATIONS CONCERNING TERRESTRIAL PLANTS[1] [2]

Subpart—Purpose and Definitions

Sec.

355.1 Purpose.
355.2 Definitions.

Subpart—Permission To Engage in Business

355.10 Permission to engage in business concerning nonlisted terrestrial plants.
355.11 General permits.

Subpart—Inspections and Related Provisions

355.20 Marking and notification requirements for plant imported, exported, or reexported by means other than mail.
355.21 Marking and mailing requirements for plants imported, exported, or reexported by mail.
355.22 Validation of documentation.
355.23 Recordkeeping, access, and reports.

Subpart—Procedures Relating to Forfeiture.

355.30 Property subject to forfeiture procedures.
355.31 Appraisement.
355.32 Property valued at greater than $10,000: Notice of seizure and civil action to obtain forfeiture.
355.33 Property valued at $10,000 or less: Notice of seizure and administrative action to obtain forfeiture.
355.34 Bonded release.
355.35 Storage of property.
355.36 Petition for remission or mitigation of forfeiture.
355.37 Return procedure.
355.38 Filing of documents.

Authority: Secs. 3, 4, 9, and 11, as amended; 87 Stat. 885, 886, 893, and 897, as amended (16 U.S.C. 1532, 1538, and 1540); 7 CFR 2.17, 2.51, 371.2.

Subpart—Purpose and Definitions

§ 355.1 Purpose.

Pursuant to the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 *et. seq.*) the Secretary is responsible for the enforcement of the provisions of the Act and Convention which pertain to the importation, exportation, or reexportation of terrestrial plants. The regulations in this Part are for the purpose of implementing this authority. Regulations of the U.S. Department of the Interior which interrelate with the regulatins in this Part are contained in 50 CFR Ch. I.

§ 355.2 Definitions.

Terms used in the singular form in this Part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this Part, shall be construed, respectively, to mean:

Act. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*).

Convention. The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS

[1] Pursuant to section 11 of the Act (16 U.S.C. 1540) it is unlawful for any person to knowingly violate any provision of the Act, any permit or certificate issued under the Act, or any regulation promulgated under the Act. Further, section 11 of the Act provides for criminal, civil, and administrative penalties for any such violation.

[2] Plant Protection and Quarantine also administers programs under the Lacey Act Amendments of 1981 (16 U.S.C. 3401 *et seq.*), the Plant Quarantine Act, as amended (7 U.S.C. 151 *et seq.*), the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*) which contain authority for additional prohibitions and restrictions on the importation of plants subject to this Part (see other parts of 7 CFR Chapter III for regulations containing prohibitions and restrictions under these authorities).

8249, 27 U.S.T. 1087, signed on March 3, 1973, and the Appendices thereto.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Engage in business as an importer, exporter, or reexporter of terrestrial plants. To import, export, or reexport terrestrial plants for the purpose of gain or profit.

Import (imported, importing, importation). To land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the Act and Convention, and regulations promulgated thereunder.

Person. Any individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof; or of any foreign government.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Act and Convention, and regulations promulgated thereunder.

Reexport (reexported, reexportation). To export following importation.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his or her stead has been or may hereafter be delegated.

Terrestrial plants. Any plants (including epiphytic plants), except marine plants.

United States. Any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

Subpart—Permission To Engage in Business

§ 355.10 Permission to engage in business concerning nonlisted terrestrial plants.

The Secretary hereby grants permission for any person engaged in business as an importer, exporter, or reexporter of terrestrial plants, other than terrestrial plants listed in 50 CFR 17.12 or 23.23, to engage in such business without a general permit issued under § 355.11.

§ 355.11 General permits.[3]

(a) On or after [approximately four months after this Part becomes effective] no person shall engage in business as an importer, exporter, or reexporter of any terrestrial plants listed in 50 CFR 17.12 or 23.23 unless such person has obtained a general permit for engaging in such business from Plant Protection and Quarantine.

(b) An application for a general permit should be submitted to Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782. The completed application shall include the following information:[4]

(1) Date of application;

(2) Applicant's name, mailing address, and telephone number;

(3) If the applicant is an individual, the business affiliation, if any, having to do with the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(4) If the applicant is in the name of a business or if the applicant is affiliated with a business which imports, exports, or reexports terrestrial plants listed in 50 CFR 17.12 or 23.23, the form of the business, e.g., corporation, firm, partnership; and the name and address of each partner, officer, director, holder, and owner of 10 percent or more of the voting stock, and employee in a managerial or executive capacity;

(5) The address of all of applicant's business locations where activities relating to terrestrial plants listed in 50 CFR 17.12 or 23.23 would be conducted;

(6) A brief description of the nature of the applicant's business as it relates to engaging in business as an importor, exporter, or reexporter of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(7) Any address where books or records concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 would be kept;

(8) Name, address, and telephone number of the person authorized to make records or plant inventories available for examination by inspectors or other duly authorized representatives of the Secretary; and

(9) Certification by signature of the applicant (must be a partner or officer if the applicant is a business) after the following language: "I hereby certify that the information in this application is complete and accurate to the best of my knowledge and belief."

(c) Each application for a general permit must be accompanied by a check or money order for $70 made payable to Plant Protection and Quarantine. The fee shall not be refunded if the application is denied or abandoned.

(d) After receipt and review of the application by Plant Protection and Quarantine, a general permit for the importation, exportation, and reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 shall be issued if the applicant has submitted an application containing all information requested in paragraph (b) of this section, if the applicant has paid the fee in accordance with paragraph (c) of this section, and if a general permit of the applicant or anyone responsibly connected with the business of the applicant has not been and is not denied, suspended or revoked pursuant to paragraph (i) of this section.

(e) The applicant shall be notified in writing by Plant Protection and Quarantine of the approval or denial of any request for a general permit. If a general permit is denied, the notification shall state the reasons therefor. If a general permit is denied, the applicant may request a hearing pursuant to paragraph (i)(1) of this section and may submit to Plant Protection and Quarantine, in writing, reasons why the permit should not be denied. Such submissions of the applicant shall not be considered a new application if submitted within 20 days following the receipt of notification by the applicant.

(f) Upon receipt of an incomplete or improperly executed application, the applicant shall be notified by Plant Protection and Quarantine of the

[3] This permit is named a "general permit" in order to avoid confusion with "permits" obtained under the Act from the U.S. Department of the Interior to accompany the importation, exportation, or reexportation of plants under U.S. Department of the Interior regulations, and to avoid confusion with "permits" obtained from Plant Protection and Quarantine for the importation of plants under the Plant Quarantine Act, as amended (7 U.S.C. 151 *et seq.*) and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*).

[4] Application forms are available without charge from Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, or local offices, which are listed in telephone directories.

deficiency of the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 20 days following the receipt of notification by the applicant, the application shall be considered abandoned.

(g) Upon receipt of an application filed with an insufficient fee, or without a fee, the application and any fee submitted will be returned to the applicant.

(h) A general permit shall be valid for 2 years from the date of issuance unless suspended or revoked pursuant to paragraph (i) of this section. A new application must be submitted for the renewal of the general permit.

(i)(1) Any application for a general permit may be denied and any general permit which has been issued may be suspended or revoked for a time specified by the Deputy Administrator for any of the reasons provided in paragraph (i)(2) of this section. Before such action is taken, the applicant or permittee will be informed of the reasons for the proposed action, and upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding. However such denial, suspension or revocation may become effective pending final determination in the proceeding, if the permittee has been convicted of a criminal violation of the Act, or of any regulation, permit, or certificate issued under the Act. Such denial, suspension or revocation shall be effective upon oral or written notification, whichever is earlier, to the permittee. In the event of oral notification of the denial, suspension or revocation, written confirmation shall be given to the permittee as promptly as circumstances allow. This denial, suspension or revocation shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator.

(2) An application for a general permit may be denied and any general permit which has been issued may be suspended or revoked if:

(A) Any requirement of this subpart is not complied with, or

(B) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been criminally convicted or had a civil penalty imposed for a violation of the Act or of any regulation, permit, or certificate issued under the Act, or

(C) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been convicted of any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity needed for the conduct of operations concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23.

(3) For the purposes of this section, a person shall be deemed to be responsibly connected with the business of the applicant or permittee if the person is a partner, officer, director, holder, or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity.

Subpart—Inspections and Related Provisions

§ 355.20 Marketing and notification requirements for plants imported, exported, or reexported by means other than mail.[5]

(a) Any terrestrial plant which is to be imported, exported, or reexported by means other than mail and which may be imported, exported, or reexported under 50 CFR Part 17 or 23 only if accompanied by documentation, shall at the time of importation, exportation, or reexportation plainly and correctly bear on the outer container or on a tag, invoice, or packing list accompanying the plant, the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country and locality where collected from the wild or where produced from cultivated stock,

(3) Name and address (in the United States if exported or reexported) of shipper, owner, or person shipping or forwarding the plants,

(4) Name and address (in the United States if imported) of consignee,

(5) Identifying shipper's mark and number, and

(6) Serial number and type (e.g., permit, certificate) of document issued for the importation, exportation, or reexportation of the plant.

(b) Promptly upon arrival at the port of import of any terrestrial plant which is imported by means other than mail and which may be imported under 50 CFR Part 17 or 23 only if accompanied by documentation, the importer shall notify Plant Protection and Quarantine of the arrival and of the genus and species of the plant by such means as a manifest, Customs entry document, commercial invoice, waybill, broker's document, or notice form provided for that purpose.

(c) Prior to the exportation or reexportation of any terrestrial plant which is to be exported or reexported by other than mail and which may be exported or reexported under 50 CFR Part 17 or 23 only if accompanied by documentation, the exporter or reexporter shall notify Plant Protection and Quarantine of the intended exportation or reexportation and of the genus and species of the plant by such means as a manifest, commercial invoice, waybill, broker's document, or notice form provided for that purpose.

§ 355.21 Marking and mailing requirements for plants imported, exported, or reexported by mail.[5]

(a) Any terrestrial plant which is to be imported by mail and which may be imported under 50 CFR Part 17 or 23 only if accompanied by documentation, shall be mailed to Plant Protection and Quarantine (at a port authorized for such purpose by the U.S. Department of the Interior pursuant to section 9(f) of the Act (16 U.S.C. 1538(f))); and shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient in the United States; and shall plainly and correctly bear on the outer container the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country and locality where collected from the wild or where produced from cultivated stock,

(3) Name and address of shipper, owner, or person shipping or forwarding the plants, and

(4) Serial number and type (e.g. permit, certificate) of document issued for the importation of the plant.

(b) Any terrestrial plant which is to be exported or reexported by mail and which may be exported or reexported under 50 CFR 17 or 23 only if accompanied by documentation, shall be mailed to Plant Protection and Quarantine (at a port authorized for such purpose by the U.S. Department of the Interior pursuant to section 9(f) of the Act (16 U.S.C. 1538(f))); shall be wrapped in double wrapping, with an unsealed inner wrapping addressed to the foreign recipient and bearing sufficient postage for mailing to the foreign destination; shall be accompanied by a separate sheet of

[5] Certain terrestrial plants listed in Appendices I, II, or III of the Convention or determined by the U.S. Department of the Interior to be endangered or threatened or similar in appearance to endangered or threatened species are required to be accompanied by documentation at the time of importation, exportation, or reexportation (see 50 CFR Chapter I). Plants are allowed to be imported, exported or reexported only at ports authorized for such purpose by the U.S. Department of the Interior pursuant to section 9(f) of the Act (16 U.S.C. 1538(f)).

paper within the package plainly and correctly bearing the following informaton:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country and locality where collected from the wild or where produced from cultivated stock,

(3) Name and address in the United States of shipper, owner, or person shipping or forwarding the plants, and

(4) Serial number and type (e.g. permit, certificate) of document issued for the exportation or reexportation of the plant.

§ 355.22 Validation of documentation.

(a) Documentation for any mailed or nonmailed terrestrial plant which is listed in 50 CFR 17.12 or 23.23 and which is required to have documentation under 50 CFR Part 17 or 23 at the time of importation, must be validated by an inspector prior to movement of such plant from the Customs inspection area at the port of entry. The documentation must be surrendered to the inspector at the time of validation.

(b) Documentation for any mailed or nonmailed terrestrial plant which is listed in 50 CFR 17.12 or 23.23 and which is required to have documentation under 50 CFR 17 or 23 at the time of exportation or reexportation, must be validated at the port of export or reexport by an inspector prior to the exportation or reexportation of such plant. Two copies of the documentation must be submitted for validation, and one copy must be surrendered to the inspector at the time of validation.

(c) Documentation for a plant shall be validated under this section upon endorsement of the documentation by an inspector when he or she determines that the plant was apparently eligible for importation, exportation, or reexportation in accordance with the provisions of this Part and provisions of 50 CFR Chapter I relating to the Act and Convention.

(d) To obtain validation of documentation, the importer, exporter, or reexporter, or agent therof, shall make available to an inspector:

(1) All shipping documents (including bills of lading, waybills, packing lists, and invoices);

(2) All documents required by the Act and Convention; and

(3) The plant being imported, exported, or reexported.

§ 355.23 Recordkeeping, access, and reports.

(a) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR Part 17 or 23 shall keep such records as will fully and correctly disclose each importation, exportation, or reexportation of terrestrial plants made by such person and the subsequent disposition made by such person with respect to the plants. Such records shall include shipping documents for each shipment of plants imported, exported, or reexported; a description of the form of the plants (such as whole live plants, cuttings, seeds, or other specific parts or derivatives of plants); the scientific and common names of the plants; the country or place of origin of the plants; the date and place of importation, exportation, or reexportation of the plants; the number (weight if the plants cannot be quantified by number) and specific location of plants; the date and means of subsquent disposition of the plants, whether by sale, barter, consignment, loan, delivery, destruction, or other means; and names and addresses of persons to whom the plants were disposed, if applicable.

(b) Every record required to be kept under this section shall be kept for a period of 5 years after the occurrence of the transactions to which the records relate, and for such further time as the Deputy Administrator may require by written notice to the person required to keep such records under this part for purposes of any investigation, litigation, or other proceeding under the Act or this Part.

(c) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR Part 17 or 23 shall, upon presentation of credentials by an inspector or duly authorized representatives of the Secretary; during ordinary business hours of the person given notice, afford such inspector access to the person's place of business, the opportunity to examine the person's inventory of plants and the records required to be kept under paragraph (a) of this section, and the opportunity to copy such records. The use of a room, table, or other facilities (other than reproduction equipment) necessary for examination and copying of records and for such examination of inventory shall be afforded such inspector.

(d) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR Part 17 or 23, upon written request by the Deputy Administrator, shall submit within 30 days of such request, a report concerning any of the information required to be maintained under paragraphs (a) and (b) of this section.

Subpart—Procedures relating to forfeiture

§ 355.30 Property subject to forfeiture procedures.

This subpart sets forth procedures relating to forfeitures for any plants, equipment, means of conveyance or other property [6] seized under the Act, in possession (actual or constructive) of the United States Department of Agriculture, and subject to forfeiture under the Act because of activities pertaining to the importation, exportation, or reexportation of terrestrial plants.

§ 355.31 Appraisement.

Promptly following the seizure or other receipt of property specified in § 335.30, the Deputy Administrator shall determine the retail value of such property in the same quantity or quantities as seized. If the property may lawfully be sold in the United States, the value thereof shall be determined by ascertaining the price at which the property or similar property in the ordinary course of trade is freely offered for sale at the time of appraisement, and at a principal market as close as possible to the place of appraisement. If the property may not lawfully be sold in the United States, the value thereof shall be determined by other reasonable means.

§ 355.32 Property valued at greater than $10,000: Notice of seizure and civil action to obtain forfeiture.

Promptly following the seizures or other receipt of any property specified in §355.30 and determined under § 355.32 to have a value greater than $10,000, the Deputy Administrator shall mail a notice of seizure by registered or certified mail to the current or last known address, return receipt requested, to persons known or reasonably ascertained to be the owner or agent of the seized property and to any other person having an interest in the property, if such owner or agent or other person and their address is known or reasonably ascertainable. Such notice shall describe the seized property, shall state the time, date, place, and reason for the seizure, shall state that there is a right to petition for remission or mitigation of forfeiture pursuant to § 355.36, and shall state that action shall

[6] Under section 11(e)(4) of the Act (16 U.S.C. 1540(e)(4)) any such equipment and means of conveyance would be subject to forfeiture upon conviction of a criminal violation pursuant to section 11(b)(1) of the Act (16 U.S.C. 1540(b)(1)); however, such a plant may be subject to forfeiture regardless of whether a criminal conviction is obtained.

be taken in accordance with this subpart. Promptly following the seizure of such property, the Secretary shall also submit a report concerning such property to the United States attorney in the district for which the seizure was made for institution of forfeiture proceedings in the United States District Court. The report shall provide a statement of all the relevant facts and circumstances of the case, including the names of the witnesses, and a citation to the laws believed to have been violated and on which reliance may be had for forfeiture.

§ 355.33 Property valued at $10,000 or less; Notice of seizure administrative action to obtain forfeiture.

(a) *When authorized.* The Secretary shall take measures to obtain forfeiture in accordance with this section of any property specified in § 355.30 and determined under § 355.31 to have a value of $10,000 or less.

(b) *Waiver of forfeiture procedures by owner of seized property.* A person claiming to be an owner or to have an interest in any property specified in § 355.30 with value of $10,000 or less may waive any rights to any procedures relating to forfeiture under this subpart by signing a statement providing for waiver of such rights. (1) The Deputy Administrator shall publish a copy of the notice of seizure and proposed forfeiture as provided in § 355.33(c)(1) by posting for 21 days in a conspicious place accessible to the public at the Plant Protection and Quarantine Enforcement office nearest the place of seizure. The time and date of posting shall be indicated on the notice. (2) Upon the execution of such statement and following publication of the notice for 21 days as provided in § 355.33(c)(1), any interest in such property by such owner shall become forfeited under the Act without further action under this subpart, and the Deputy Administrator shall not be required to send such owner any notices or declarations otherwise required by this subpart.

(c) *Procedure absent waiver of forfeiture procedures by owner.* (1) Notice of seizure and proposed forfeiture. Promptly following seizure of property, the Deputy Administrator shall issue a notice of seizure and proposed forfeiture. The notice shall be in substantially the same form as a complaint for forfeiture filed in the United States District Court. The notice shall describe the seized property, including any identification numbers, such as the license, registration, motor, and serial numbers for a motor vehicle. The notice shall state the time, date, and place of seizure; the reason for seizure; and shall specify the value of the property as determined under § 355.31. The notice shall contain specific reference to the provisions of the Act, permit, certificate, or regulations allegedly violated and under which the property is subject to forfeiture. The notice shall state that any person desiring to claim the property must file a claim and a bond in accordance with paragraph (c)(2) of this section, and shall state that if a proper claim and bond are not received by the specified office within the time prescribed by such paragraph, the property will be declared forfeited to the United States and disposed of according to law. The notice shall also advise interested persons of their right to file a petition for remission or mitigation of forfeiture in accordance with § 355.36.

(i) Promptly following the seizure, the Deputy Administrator shall mail a copy of the notice by registered or certified mail, return receipt requested, to persons known or reasonbly ascertained to be the owner or agent of the seized property, and to any other person having an interest in the property, if such owner or agent or other person and their address is known or reasonably ascertainable.

(ii) *Publication.* Promptly following the seizure, the Deputy Administrator shall publish a copy of the notice by posting for 21 days in a conspicuous place accessible to the public at the Plant Protection and Quarantine enforcement office nearest the place of seizure. The time and date of posting shall be indicated on the notice.

(2) *Filing a claim and bond.* Upon issuance of the notice of proposed forfeiture, any person claiming ownership of or other interest in the seized property may file with the office specified in the notice a claim to the property and a bond in the amount of $250, with sureties to be approved by the Deputy Administrator, conditioned that in case of condemnation of the articles so claimed, the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation. Any claim and bond must be received in such office within 20 days after posting of the notic of proposed forfeiture, and shall state claimant's interest in the property. The Deputy Administrator may extend the 20 day period with an appropriate statement on the posted notice of proposed forfeiture, if necessary, to allow a person deemed to have an interest in the property at least 10 days to file such a claim and bond after receipt of a notice of proposed forfeiture. The bond shall be on a United States Customs Form 4615 or on a similar form provided by Plant Protection and Quarantine. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a description of seized articles, claim for which is covered by the bond:

The foregoing list is correct.

Claimant _____

Attest:

_____

_____

The claim and bond referred to in this paragraph shall not entitle the claimant or any other person to possession of the property.

(3) *Transmittal to United States Attorney.* As soon as practicable after timely receipt by the specified office of a proper claim and bond in accordance with paragraph (c)(2) of this section, the Secretary shall transmit such claim, bond (with a duplicate list and description of the articles seized), and a report as described in § 355.32 to the United States Attorney for the district in which seizure was made for forfeiture proceedings in the United States District Court.

(d) *Summary forfeiture.* If a proper claim and bond are not received by the specified office within the time periods as specified in paragraph (c)(2) of this section, the property shall be forfeited and the Deputy Administrator shall prepare a declaration of forfeiture. The declaration of forfeiture shall be in writing, and the Deputy Administrator shall send such declaration by registered or certified mail, return receipt requested, to each person whose whereabouts and prior interests in the seized property are known or reasonably ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in United States District Court. The declaration shall describe the property and state the time, date, place, and reason for its seizure. The declaration shall identify the notice of propsed forfeiture, describing the dates and manner of publication of the notice and any efforts made to serve the notice personally or by mail. The declaration shall state that in response to the notice a proper claim and bond were not timely received by the proper office from any claimant, and that therefore all potential claimants are deemed to admit the truth of the allegations of the notice. The declaration shall conclude with an order

of condemnation and forfeiture of the property to the United States for disposition according to law.

§ 355.34 Bonded release.

(a) The Deputy Administrator may accept a bond or other security, in the amount of the value of the property as determined under § 355.32, in place of any property specified in § 355.30 and release the property to the owner or agent of the property, if such action would not frustrate the purposes of the Act and Convention. As an example, this section does not allow the release of terrestrial plants that are without documentation required under 50 CFR Chapter I.

(b) Any request for the return of property based on the acceptance of a bond or other security shall be submitted in writing to the Deputy Administrator. The request shall include evidence to establish that the person making the request is the sole owner of the property referred to in the request or is the agent of the sole owner of such property. A response in writing granting or denying the request, and the reasons therefor, shall be sent to the person making the request.

§ 355.35 Storage of property.

Following the seizure or other receipt of any property specified in § 355.30 and valued at $10,000 or less, the property shall remain in the custody of the Deputy Administrator pending disposition. Pending such disposition, the property shall be stored in such place as, in the opinion of the Deputy Administrator, is most convenient and appropriate with due regard to the expense involved, whether or not the place of storage is within the judicial district in which the property was seized.

§ 355.36 Petition for remission or mitigation of forfeiture.

(a) Any person who has an interest in any property specified in § 355.30 and valued at $10,000 or less, or any person who has incurred or is alleged to have incurred a forfeiture of any such property, may file with the Deputy Administrator a petition for remission or mitigation of forfeiture while the property is in the custody of the Deputy Administrator.

(b) A petition filed with the Deputy Administrator need not be in any particular form, but must contain the following:

(1) A description of the property;

(2) The time, date, and place of seizure;

(3) Evidence of the petitioner's interest in the property such as contracts, bills of sale, invoices, security interests, certificates of title; and

(4) A statement of all facts and circumstances relied upon by the petitioners to justify remission or mitigation of the forfeiture.

(c) The petition shall be signed by the petitioner of the petitioner's attorney at law. If the petitioner is a business, the petition must be signed by a partner, officer, or petitioner's attorney at law.

(d) Upon receiving the petition, the Deputy Administrator shall decide whether or not to grant relief. In making a decision, the Deputy Administrator shall consider the information submitted by the petitioner, as well as any other available information relating to the matter, and may require that testimony be taken concerning the petition.

(e) If the Deputy Administrator finds that the forfeiture was incurred without willfull negligence or without any intention on the part of the petitioner to violate the law or finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Deputy Administrator may remit or mitigate the same upon terms and condition as he deems reasonable and just. However, remission or mitigation will not be made if such action would frustrate the purposes of the Act or Convention. As an example, this section does not allow remission or mitigation with respect to terrestrial plants that are without documentation required under 50 CFR Chapter I.

(f) The Deputy Administrator shall notify the petitioner in writing concerning whether the petition was granted or denied, and shall state the reasons therefor. If the petition is denied fully or in part, the petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Deputy Administrator's notification concerning the original petition. The Deputy Administrator shall notify the petitioner in writing concerning the action taken in response to the supplemental petition, and shall state the reasons therefor.

§ 355.37 Return procedure.

If, at the conclusion of proceedings, seized property is to be returned to the person determined to be owner or agent thereof, the Deputy Administrator shall issue a letter or other document to the person determined to be owner of agent thereof authorizing its return. This letter shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the person determined to be owner or agent, the seized property, and if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by Plant Protection and Quarantine, the seized property is authorized to be released.

§ 355.38 Filing of documents.

(a) Any document required by this subpart to be filed or served within a certain period of time, will be considered filed or served as of the time of receipt by the party with or upon whom filing or service is required.

(b) Saturdays, Sundays, and federal holidays shall be included in computing the time allowed for the filing or serving of any document or paper; except that when such time expires on a Saturday, Sunday or federal holiday, such period shall be extended to include the next following business day.

Done at Washington, D.C., this 1st day of December 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-32421 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 1004

Milk in the Middle Atlantic Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the Middle Atlantic milk order. The proposed suspension would be for the period of December 1983 through February 1984. The action was requested by a cooperative association to assure the efficient disposition of milk not needed for fluid use and to maintain producer status under the order for its dairy farmer members regularly associated with the market.

DATE: Comments are due on or before December 13, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building; U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Middle Atlantic marketing area is being considered for December 1983 through February 1984:

In § 1004.12, paragraph (d)(2).

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register.** The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include December 1983 in the suspension period. The comments that are sent will be available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would make inoperative for December 1983 through February 1984 the provisions of the Middle Atlantic Federal milk order that limit the amount of milk that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The order now provides that during any month of September through February a handler may divert not more than 18 days' production of each producer or that the total quantity of producer milk diverted does not exceed 40 percent of the amount of milk for which the cooperative or pool plant operator is the handler during the month.

The suspension was requested by Inter-State Milk Producers' Cooperative (Inter-State) that supplies a substantial part of the market's fluid milk needs and handles a large share of the market's reserve milk supplies. In addition, Inter-State states that Eastern Milk Producers' Cooperative Association, which represents a number of producers on the market, supports the suspension request. Also, Maryland and Virginia Milk Producers Association, Inc., advised the Department that it supports the suspension.

The basis for the request is the likely change from pool status to nonpool status of three distributing plants that have been associated with the market for a long time. These plants, which are outlets for a significant proportion of Inter-State's milk supply, have increased their Class II uses of milk while their Class I sales have remained constant or declined. The cooperative states that under this situation any of these plants could in any given month fail to qualify as a pool plant under the order. The cooperative indicates that any change in the regulatory status of the plants will reduce the basis of its diversion allowances since the order's allowable diversions are based upon the receipts of milk at pool plants. Consequently, this would increase Inter-State's diversions above the limits prescribed in the order.

The cooperative requested the suspension until a more permanent regulatory solution to the pooling problem can be formulated based on the record of a public hearing. The cooperative indicated it is considering appropriate proposed amendments to the order that would accommodate present marketing conditions.

List of Subjects in 7 CFR Part 1044

Milk marketing order, Milk, Dairy products.

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

Signed at Washington, D.C. on: December 1, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-32483 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1207

Potato Research and Promotion Plan, Proposed Amendment Regarding Potato Board Member Term of Office

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on an amendment proposed by the Potato Board to change the term of office for Board members. Under the proposed amendment, the terms of Potato Board members would be for three years beginning on March 1 and ending on the last day of February. This change would serve to coordinate the terms of office with the annual Board meeting.

DATES: Comments due by December 21, 1983.

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

FOR FURTHER INFORMATION CONTACT: Kurt Kimmel, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 475-3929.

SUPPLEMENTARY INFORMATION: The proposed rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

The Potato Board is the administrative agency established by the Potato Research and Promotion Plan (7 CFR Part 1207). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The term of office of Board members currently begins on April 1 and ends on the last day of March. Since the annual Board meetings have historically been held in April, this enabled new Board members to participate fully at such meetings. However, the Board has recently determined that holding the annual meeting in March would better serve to avoid conflicts with planting schedules. Therefore, the Board has requested that the terms of office of its members be readjusted by one month in order to allow the new members to assume their duties before the annual meeting. Under the proposal, the terms of office of current Board members which are now scheduled to end on the last day of March in 1984, 1985, or 1986 would automatically terminate on the last day of February of that same year. The date for submitting nominees for the Board would also be readjusted by one month in order to give the Secretary

sufficient time to complete the selection process.

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

The proposal is as follows:

PART 1207—[AMENDED]

1. In § 1207.503 paragraph (a) is revised to read as follows:

§ 1207.503 Nominations.

(a) Pursuant to § 1207.322 of the plan, the Board shall hold or cause to be held a meeting or meetings of producers in the producing sections or States each year to nominate members for the Board. One individual shall be nominated for each position to become vacant. A list of nominees shall be submitted to the Secretary for his consideration by January 1 of each year.

* * * * *

2. In § 1207.504 paragraph (a) is revised to read as follows:

§ 1207.504 Term of office.

(a) The term of office of Board members shall be for three years and shall begin March 1 and end on the last day of February.

* * * * *

(Title III of Pub. L. 91-670; 84 Stat. 2041; 7 U.S.C. 2611-2627; as amended)

Dated: December 1, 1983.

Russell L. Hawes,

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

[FR Doc. 83-32484 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 83-073]

Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning brucellosis by providing a mechanism whereby "certified brucellosis-free herds" of cattle can be converted to "qualified herds" if a federal quarantine is established. This appears to be warranted in order to delete unnecessary restrictions that otherwise would be imposed on the interstate movement from quarantined areas of cattle from "certified brucellosis-free" herds.

DATE: Comments must be received on or before February 6, 1984.

ADDRESS: Written comments concerning this interim rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5961.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) regulate the interstate movement of certain animals, including cattle, from both quarantined and nonquarantined areas.

The regulations currently provide that cattle may be moved interstate from quarantined areas in accordance with the provisions specified in § 78.12a, and provide that cattle may be moved interstate from nonquarantined areas only in accordance with the provisions specified in §§ 78.3 through 78.12. The regulations set forth a mechanism based on negative testing for brucellosis to allow cattle from "qualified herds" to be moved interstate from quarantined areas (see §§ 78.1 and 78.12a). The regulations also set forth a mechanism based on negative testing for brucellosis to allow cattle from herds designated as "certified brucellosis free herds" (referred to below as "certified herds") to be moved interstate from nonquarantined areas (see §§ 78.1 and 78.9).

Consideration has been given whether to amend the regulations to provide criteria to allow "certified herds" to be converted to "qualified herds" in those cases when areas in which such herds are located are designated as quarantined areas, and thereby allow such cattle to be moved interstate from quarantined areas in accordance with the criteria specified for cattle from "qualified herds".

Section 78.1(q) provides that a herd of cattle may qualify as a "certified herd" by either of the following methods:

(1) In the case of a dairy herd, by conducting a minimum of three consecutive negative milk ring tests at not less than 90-day intervals, followed by a negative herd blood test conducted within 90 days after the last negative milk ring test; or

(2) By conducting at least [t]wo consecutive negative blood tests of all test-eligible cattle. Tests shall not be less than 10 months nor more than 14 months apart. The status will remain in effect for 12 months beginning with the date of the qualifying herd blood test. A negative blood test of all test-eligible cattle must be conducted within 10 to 12 months of the last certification date for continuous status * * *

Section 78.1 (nn) defines "qualified herds" as follows:

Any herd of cattle or bison in a quarantined area which is not known to be affected with brucellosis and which has been subjected to two consecutive official tests for brucellosis and found negative. The first of these two official tests of the herd in the quarantined area shall be conducted not more than 240 days nor less than 120 days prior to the date of such classification, as a Qualified Herd and the second official test not more than 120 days prior to the date of such classification, and such tests shall be performed not less than 90 days nor more than 120 days apart. In order to remain a Qualified Herd, a herd must be subjected to successive requalifying official tests and found negative. To maintain status as a qualified herd, each such requalifying test shall be conducted not more than 120 days from the date of the immediately preceding official test. All cattle or bison added to a qualified herd must have been included in the preceding two official tests to qualify as cattle or bison from the Qualified Herd.

It has been determined that herds of cattle designated as "certified herds" would pose a risk of carrying brucellosis no greater than that of a "qualified herd" if the "certified herd" had been subjected to a herd blood test and found free of brucellosis within 120 days prior to or after the establishment of the quarantine. Therefore, it is proposed to amend the regulations to allow "certified herds" of cattle so tested and found free of brucellosis within 120 days prior to or after the establishment of the quarantine to be converted to "qualified herds".

Also, as noted above, § 78.1(nn) provides, that in order to maintain status as a "qualified herd", such herds must be subjected to requalifying tests within stated intervals. In addition, it should be noted that § 78.12a provides that cattle from "qualified herds" in any quarantined area may be moved interstate only under certain specified conditions. These conditions concern source, destination, burcellosis tests, and identification.

Steers and Spayed Heifers

Prior to January 12, 1983, § 78.6 provided that steers and spayed heifers over 6 months of age may be moved

interstate from any area without restrictions. In a document published in the Federal Register on December 13, 1982 (47 FR 55636–55656), § 78.6 was amended effective January 12, 1983, to provide that steers and spayed heifers of any age may be moved interstate from any area without restrictions under the regulations. However, § 78.12(a) inadvertently was not also amended and still provides that only steers and spayed heifers over 6 months of age may be moved interstate from a quarantined area without restriction. In order to protect against the spread of brucellosis, it is only necessary to regulate the movement of sexually intact cattle. Brucellosis is transmitted by sexually intact cows and bulls at the time of breeding and calving. Since steers and spayed heifers are neutered animals incapable of breeding and calving, the risk of these animals spreading brucellosis is not significant. Therefore, it is necessary also to amend § 78.12a to provide that steers and spayed heifers of any age may be moved interstate from any area without restrictions under the regulations.

Maximum Number of Days Between Initial Brucellosis Tests

As noted above, the regulations in § 87.1(nn) provide for two official negative tests for brucellosis as a basis for designating a herd of cattle or bison as a "qualified herd". In this connection, it is provided that such tests shall be performed not less than 90 days nor more than 120 days apart.

Prior to January 12, 1983, it was provided that such tests "shall be performed not less than 90 days nor more than 150 days apart." However, the final rule published December 13, 1982, which became effective January 12, 1983, erroneously changed the regulations to state "120 days" rather than "150 days". Such a negative test within 150 days would still provide an adequate basis for designating a herd as a "qualified herd". Therefore, it is necessary to change the reference to "120 days" to "150 days".

Correction of References

Sections 78.12a and 78.17 contain several incorrect references to other sections in Part 78. When Part 78 was amended in January 1983 (47 FR 55636–55656), many sections were renumbered. However, the references in §§ 78.12a and 78.17 were not changed at that time to reflect the new numbering. Therefore, it is necessary to change the incorrect references in §§ 78.12a and 78.17 to conform to the new numbering of the sections in Part 78. Accordingly, the following references in § 78.12a would be amended as follows: The references in paragraphs (d)(1), (d)(2) and (d)(3) to §78.1(u) would be amended to refer to § 78.1(n); the reference in paragraph (d)(1) to § 78.8(b) would be amended to refer to § 78.8(a); the reference in paragraph (d)(2) to § 78.8(a) would be amended to refer to § 78.8(b); and the reference in footnote 4 in paragraph (e) to § 78.1(o) would be amended to refer to § 78.1(nn). Also, the reference in § 78.17(c)(4) to § 78.1(u) would be amended to refer to § 78.1(n).

Miscellaneous

This document also makes certain nonsubstantive changes in the regulations for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

This proposed action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action would not have an effect on the economy of $100 million or more; would not cause any significant increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have any significant adverse effects on competition, employment, investment, productivity innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There are approximately 15,000 "certified herds" of cattle in the entire United States, compared with a total of approximately 1,700,000 herds of all types of cattle. Only a very small portion of these "certified herds" are located in any one State. Currently no States are subject to a federal quarantine. However, if a federal quarantine were imposed on a state, or a portion thereof, it appears that only an insignificant number of owners of "certified herds" would convert their herds to "qualified herds".

Under these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not have a significant economic impact on a substantial number of small entities.

Alternatives

Consideration was given whether or not to propose to establish a mechanism whereby "certified herds" of cattle could be converted to "qualified herds" if a federal quarantine is established. Such a mechanism is proposed because it appears that it would allow the deletion of unnecessary restrictions on the interstate movement from quarantined areas of cattle from "certified herds".

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Brucellosis, Cattle, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, it is proposed to amend 9 CFR Part 78 as set forth below:

1. In § 78.1, paragraph (nn) would be revised to read as follows:

§ 78.1 Definitions.

* * * * *

(nn) *Qualified herd.* (1) Any herd of cattle or bison in a quarantined area which is not known to be affected with brucellosis and which has been subjected to two consecutive official tests for brucellosis and found negative. The first of these two official tests of the herd shall be conducted not more than 240 days nor less than 120 days prior to the date of classification as a qualified herd. The second official test may not be conducted less than 90 days nor more than 150 days after the first test. Additionally, the second test must be within 120 days of the date of classification as a qualified herd. Certified brucellosis free herds may qualify for classification as qualified herds by having a negative herd blood test 120 days prior to or after the establishment of a quarantine. (2) In order to remain a qualified herd, a herd must be subjected to successive requalifying official tests and found negative. To maintain status as a qualified herd, each such requalifying test shall be conducted not more than 120 days from the date of the preceding official test. All cattle or bison added to a qualified herd must have been included in the preceding two official tests to qualify as cattle or bison from the qualified herd.

* * * * *

2. In § 78.12a, paragraph (a) would be revised to read as follows:

§ 78.12a Cattle from quarantined areas.

* * * * *

(a) *Steers and spayed heifers.* Steers and spayed heifers may be moved interstate without restriction.

* * * * *

3. Section 78.12a would be amended as follows: The references in paragraphs (d)(1), (d)(2), and (d)(3) to "§ 78.1(u)" would be amended to refer to "§ 78.1(n)"; the reference in paragraph (d)(1) to "§ 78.8(b)" would be amended to refer to "§ 78.8(a)"; the reference in

paragraph (d)(2) to "§ 78.8(a)" would be amended to refer to "§ 78.8(b)"; and the reference in footnote 4 in paragraph (e) to "§ 78.1(o)" would be amended to refer to "§ 78.1(nn)".

§ 78.17 [Amended]

4. In § 78.17 the reference to "§ 78.1(u)" would be amended to refer to "§ 78.1(n)".

Authority: Secs. 4, 5, 6, 7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114a–1, 115–120, 121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 1st day of December 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-32482 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed changes to the official staff commentary to Regulation Z (Truth in Lending), 12 CFR Part 226. The commentary applies and interprets the requirements of Regulation Z with regard to consumer credit transactions and is a substitute for individual staff interpretations of the regulation. The commentary proposals address a variety of questions that have arisen about the regulation, such as the proper treatment of certain mortgage guarantee insurance premiums, certain fees for the use of credit cards in interchange or shared systems, and certain types of variable-rate transactions.

DATE: Comments must be received on or before January 31, 1984.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments should include a reference to TIL-1. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Contact the following attorneys in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-2412 or (202) 452-3867:

Subpart A—Ruth Amberg, Steven Zeisel
Subpart B—Richard Garabedian, Lynn Goldfaden
Subpart C—Clarence Cain, Susan Werthan
Subpart D—Rugenia Silver

SUPPLEMENTARY INFORMATION: (1) *General.* Effective October 13, 1981, an official staff commentary was published to interpret Regulation Z (12 CFR Part 226). The commentary is designed to provide guidance to creditors in applying the regulation to specific transactions. The commentary is updated periodically to address significant questions that arise. There have been two updates to the commentary so far, the first in September 1982 (47 FR 41338) and the second in April 1983 (48 FR 14882). This notice contains the proposed third update. It is expected that it will be adopted in final form in March 1984 with optional compliance until the uniform effective date of October 1 for mandatory compliance.

Certain conventions have been used to highlight the proposed revisions. New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets.

(2) *Proposed revisions.* Following is a brief description of the proposed revisions to the commentary:

Subpart A—General

Section 226.2—Definitions and Rules of Construction.

2(a)(17) "Creditor".

The last sentence of comment 2(a)(17)(i)-7 would be deleted because it contains a cross-reference to the commentary discussing "arranger of credit," which was deleted in April 1983 (48 FR 14882). The sentence should have been deleted at that time.

Section 226.4—Finance Charge.

4(b) Examples of Finance Charges.

Comment 4(b)(2)-2 would be added to except from the finance charge certain fees imposed on cardholders for the use of electronic terminals in interchange or shared systems. A companion provision would be added to the commentary on § 226.6(b) to retain certain disclosure requirements for these fees.

4(c) Charges Excluded from the Finance Charge.

Paragraph 4(c)(5).

Comment 4(c)(5)-2 would be added to explain the correct treatment of mortgage insurance premiums (and other charges that are normally paid by the borrower) when they are paid at or before settlement in a lump sum by the noncreditor seller. This is most likely to arise in the case of FHA mortgate insurance premiums, which the Department of Housing and Urban Development now collects in a lump sum rather than periodically. If the seller makes the payment, the creditor should treat the amount of the payment as seller's points and exclude it from the finance charge. A creditor who gives disclosures before the payment has been made should rely on the estimate provision of § 226.17(c)(2) to determine the correct disclosures.

Subpart B—Open-End Credit

Section 226.6—Initial Disclosure Statement.

6(a) Finance Charge.

A paragraph would be added to the commentary to § 226.6(a)(2) to clarify the disclosures for discounted variable-rate plans.

6(b) Other Charges.

If the proposal to except certain interchange fees paid by the cardholder from the finance charge is adopted (see proposed comment 4(b)(2)-2), an example would be added to the list of "other charges" in comment 6(b)-1, to clarify that such fees must still be disclosed as "other charges" under §§ 226.6(b) and 226.7(h). In addition to fees assessed by interchange systems, there may be fees assessed by other system participants that should be disclosed to cardholders. An example would be the various fees assessed by terminal owners that are passed through to the cardholder by the card issuer. While card issuers may not know the amounts of the various charges and, therefore, may not be able to disclose them on the initial disclosure statement, such fees may be candidates for disclosure on the periodic statement.

Comment is solicited on the technical aspects of how these terminal fees will be passed through to card issuers—and, subsequently, to cardholders. (For example, some fees may be included in the amount of the transaction and disclosed to the cardholder at the terminal, whereas others may be sent through the system separately from the underlying transaction.) Comment is also solicited on whether there are operational problems in disclosing these fees on the periodic statement.

Section 226.12—Special Credit Card Provisions.

12(b)(3) Notification to Card Issuer.

Comment 12(b)(3)–3 would be added to point out that, under the regulation, the applicability of the liability limitation provision for unauthorized use detailed in § 226.12 is not dependent upon whether the consumer follows the error resolution procedures of § 226.13.

Section 226.13—Billing-Error Resolution.

13(d)(1) Consumer's Right to Withhold Disputed Amount; Collection Action Prohibited.

Language would be added to comment 13(d)(1)–1 to clarify that finance or other charges cannot be imposed on undisputed balances even in subsequent billing cycles, merely because the consumer withholds payment of a disputed amount.

Paragraph 13(g)(1). Comment 13(g)(1)–1 would be revised to make clear that, when the creditor notifies the consumer of amounts still owed from the resolution period, the creditor may not include finance or other charges imposed on the undisputed amounts solely because the consumer withheld payment of a disputed amount.

Section 226.14—Determination of Annual Percentage Rate.

14(a) General Rule.

A comment would be added to the commentary to § 226.14(a) to clarify the circumstances under which creditors may utilize footnote 31a, regarding faulty calculation tools.

Section 226.16—Advertising.

16(b) Advertisement of Terms that Require Additional Disclosures.

Comment 16(b)–4 would be modified to describe several ways of satisfying the required disclosure of the annual percentage rate in an advertisement for a variable-rate plan.

A new comment 16(b)–5 would be added to explain how to advertise discounted variable-rate plans.

Comments 16(b) 5 and 6 would be redesignated as comments 16(b) 6 and 7.

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements.

17(b) Time of Disclosures.

Comment 17(b)–2 would be revised to clarify the time of disclosure when an open-end credit account is converted to a closed-end-transaction. Under some state laws, consummation of the closed-end transaction is deemed to occur at the same time as the opening of the open-end credit plan, even though the conversion may occur several years later. In these cases, the closed-end credit disclosures may be given at the time of the conversion.

Section 226.18—Content of Disclosures.

18(f) Variable Rate.

A paragraph would be added to the commentary to § 226.18(f) to clarify the disclosures for discounted variable-rate transactions.

Section 226.22—Determination of the Annual Percentage Rate.

22(a) Accuracy of the Annual Percentage Rate.

A comment would be added to the commentary to § 226.22(a)(1) to clarify the circumstances under which creditors may utilize footnote 45a, regarding faulty calculation tools.

Section 226.24—Advertising.

24(b) Advertisement of Rate of Finance Charge.

A comment would be added to § 226.24(b) to explain how to advertise discounted variable-rate transactions. The comment would allow creditors to use the advertising rules for buydowns when advertising these transactions.

24(c) Advertisement of Terms That Require Additional Disclosures.

Comment 24(c)(1), relating to the use of downpayments in advertisements, would be revised by the deletion of the second sentence, limiting the application of § 226.24(c)(1) to credit sales. In the staff's view, the removal of this current limitation would better fulfill the purpose of the advertising rules to provide complete information to prospective credit customers.

Subpart D—Miscellaneous

Section 226.28—Effect on State Laws.

28(a) Inconsistent Disclosure Requirements.

The commentary to § 226.28 would be expanded by the addition of two new comments, reflecting recent Board determinations on the effect of the Truth in Lending Act on the consumer credit laws of Mississippi and South Carolina.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Federal Reserve System, Finance, Penalties, Truth in lending.

(3) *Text of revisions.* The proposed revisions to the commentary (Supplement I to Part 226) read as follows:

Supplement I—Official Staff Interpretations

Subpart A—General

* * * * *

Section 226.2—Definitions and Rules of Construction.

2(a) Definitions.

* * * * *

2(a)(17) "Creditor".

* * * * *

Paragraph 2(a)(17)(i)

* * * * *

7. *Trusts.* In the case of credit extended by trusts, each individual trust is considered a separate entity for purposes of applying the criteria. For example:

• A bank is the trustee for three trusts. Trust A makes 15 extensions of consumer credit annually; Trust B makes 10 extensions of consumer credit annually; and Trust C makes 30 extensions of consumer credit annually. Only Trust C is a creditor for purposes of the regulation.

[With regard to the trustee's status, see the commentary to § 226.2(a)(3).]

* * * * *

Section 226.4—Finance Charge.

* * * * *

4(b) Examples of Finance Charges.

* * * * *

Paragraph 4(b)(2).

►2. *Treatment of fees for use of electronic terminals in an interchange or shared system.* Fees paid by the cardholder for use of electronic terminals in an interchange or shared system are not finance charges to the extent that:

• The fee is assessed by someone other than the card issuer (an example of such a fee is a network switch fee);

• The fee for transactions involving access to credit lines is no greater than the fee the cardholder would pay for transactions involving access to asset accounts through the same terminal or on the same interchange; and

• Any fee that is passed through to the cardholder by the card issuer is no greater than the actual fee charged to the card issuer for the transaction.

Note.—However, that certain fees that are excepted from the finance charge under this provision must be disclosed by the card issuer as "other charges" under §§ 226.6(b) and 226.7(h). (See the commentary to § 226.(b).)◄

* * * * *

4(c) Charges Excluded from the Finance Charge.

* * * * *

Paragraph 4(c)(5).

* * * * *

►2. *Other seller-paid amounts.* Mortgage insurance premiums and other charges that are normally paid by the borrower are sometimes paid in a lump sum at consummation or settlement on the borrower's behalf by a noncreditor seller. In such cases, the creditor should treat the

payment made by the seller as seller's points, and exclude it from the finance charge.◄

Subpart B—Open-End Credit

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Section 226.6—Initial Disclosure Statement.

* * * * *

Paragraph 6(a)(2).

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►10. *Discounted variable-rate plans.* In some variable-rate plans, creditors may set an initial rate that is not tied to the index used to make rate adjustments. Typically, this initial rate is lower than the rate would be if it were calculated using the index. When creditors use an initial rate that is not tied to the variable-rate index, the initial disclosure statement should reflect the initial rate (with a statement of how long it will remain in effect), and the current indexed rate together with the other variable-rate information required by footnote 12 to § 226.6(a)(2).◄

* * * * *

6(b) Other Charges.

1. *General; examples of other charges.* Under § 226.6(b), significant charges related to the plan (that are not finance charges) must also be disclosed. For example:

- Late payment and over-the-credit-limit charges.
- Fees for providing documentary evidence of transactions requested under § 226.13 (billing-error resolution).
- Charges imposed in connection with real estate transactions (See § 226.4(c)(7).)
- Taxes and filing or notary fees excluded from the finance charge under § 226.4(e).
- A tax imposed on the credit transaction by a state or other governmental body, such as a documentary stamp tax on cash advances (See the commentary to § 226.4(a).)
- Membership or participation fees for a package of services that includes an open-end credit feature, unless the fee is required whether or not the open-end credit feature is included. For example, a membership fee to join a credit union would not be an "other charge," even if membership is required to apply for credit.

►• Fees excepted from the finance charge that are assessed by an interchange system and that are paid by cardholders for use of electronic terminals in the interchange system. (See the commentary to § 226.4(b)(2).)◄

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Section 226.12—Special Credit Card Provisions.

* * * * *

12(b) Liability of Cardholder for Unauthorized Use.

* * * * *

12(b)(3) Notification to Card Issuer.

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►3. *Relationship to § 226.13.* While unauthorized use may be asserted as a billing error under § 226.13 (a) and (b), limitations on the consumer's liability for unauthorized use do not depend upon following those error resolution procedures. For example, notification of unauthorized use need not be given in writing nor within a specified number of days in order to limit the consumer's liability.◄

* * * * *

Section 226.13—Billing-Error Resolution.

* * * * *

13(d)(1) Consumer's Right to Withhold Disputed Amount; Collection Action Prohibited.

* * * * *

3. *Imposition of additional charges on undisputed amounts.* The consumer's withholding of [the] ►a◄ disputed amount from the total bill cannot subject [the] undisputed [portion] ►balances (including new purchases or cash advances made during the present or subsequent cycles)◄ to the imposition of finance or other charges. For example, if on an account with a free-ride period ►(that is, an account in which paying the new balance in full allows the consumer to avoid the imposition of additional finance charges)◄, a consumer disputes a $2 item out of a total bill of $300 and pays $298 within the free-ride period, the consumer would not lose the free-ride as to [the] ►any◄ undisputed [portion] ►amounts◄, even if the creditor determines later that no billing error occurred. ►Furthermore, finance charges could not be imposed on any new purchases or advances that, absent the unpaid disputed balance, would not have finance charges imposed on them.◄

* * * * *

13(g) Creditor's Rights and Duties after Resolution.

Paragraph 13(g)(1).

1. *Amounts owed by consumer.* Amounts the consumer still owes may include both minimum periodic payments and related finance and other charges that accrued during the resolution period. ►As noted in the commnetary to § 226.13(d)(1), even if the creditor later determines that no billing error occurred, the creditor may not include finance or other charges that are imposed on undisputed balances solely as a result of a consumer's withholding payment of a disputed amount.◄

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Section 226.14—Determination of Annual Percentage Rate.

14(a) General Rule.

* * * * *

►5. *Good faith reliance on faulty calculation tool.* Footnote 31a absolves creditors of liability for errors in the annual percentage rate and fiance charge that result from a corresponding error in a calculation tool. The availability of the footnote is limited to faulty calculation tools that are externally produced, not those that were internally prepared by the creditor. Moreover, "good faith" as used in footnote 31a requires some effort on the part of the creditor to independently verify the accuracy of the calculation tool.◄

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Section 226.16—Advertising.

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16(b) Advertisement of Terms That Require Additional Disclosures.

* * * * *

4. *Variable-rate plans.* ►In disclosing the annual percentage rate in an advertisement for a variable-rate plan, as required by § 226.16(b)(2), the creditor may use an insert showing the current rate; may give the rate as of a specified recent date; or may disclose an estimated rate under § 226.5(c). The requirement in § 226.16(b)(2) to disclose the variable-rate feature may be satisfied by disclosing◄ [An advertisement for a variable-rate plan complies with § 226.16(b)(2) if it discloses] that "the annual percentage rate may vary" or a similar statement, but the advertisement need not include the information required by footnote 12 to § 226.6(a)(2).

►5. *Discounted variable-rate plans—disclosure of the annual percentage rates.* The advertised annual percentage rates for discounted variable-rate plans must include both the initial rate and the current indexed rate, in accordance with comment 6(a)(2)–10.◄

Comments 16(b) 5 and 6 are redesignated 16(b) 6 and 7, respectively.

* * * * *

Subpart C—Closed-end Credit

Section 226.17—General Disclosure Requirements.

* * * * *

17(b) Time of Disclosures.

* * * * *

2. *Converting open-end to closed-end credit.* If an open-end credit account is converted to a closed-end transaction under a written agreement with the consumer, the creditor must provide a set of closed-end credit disclosures before consummation of the closed-end transaction. ►If consummation of the closed-end transaction occurs at the same time as the consumer enters into the open-end agreement, the closed-end credit disclosures may be given at the time of conversion.◄ (See the commentary to § 226.5 regarding conversion of closed-end to open-end credit.)

* * * * *

Section 226.18—Content of Disclosures.

* * * * *

18(f) Variable Rate.

* * * * *

►8. *Discounted variable-rate transactions.* In some variable-rate transactions, creditors may set an initial rate that is not tied to the index used to make rate adjustments. Typically, this initial rate is lower than the rate would be if it were calculated using the index. When creditors use an initial rate that is not tied to the variable-rate index, the disclosures should reflect a composite annual percentage rate based on the initial rate for as long as it remains in effect and the indexed rate at the time of consummation of the transaction for the remainder of the term. For example, in a 30-year transaction with a rate tied to the 6-month Treasury bill rate plus 2 percent, a creditor may set the rate at 9 percent for the first year although the Treasury bill rate at the time of consummation is 10 percent. The disclosures should reflect a composite annual percentage rate based on 9 percent for one year and 12

percent for 29 years. The payment schedule should reflect 12 payments at 9 percent and 348 payments at 12 percent.◀

* * * * *

Section 226.22—Determination of the Annual Percentage Rate.

22(a) Accuracy of the Annual Percentage Rate.

Paragraph 22(a)(1).

* * * * *

►5. *Good faith reliance on faulty calculation tool.* Footnote 45a absolves creditors of liability for errors in the annual percentage rate and finance charge that result from a corresponding error in a calculation pool. The availability of the footnote is limited to faulty calculation tools that are externally produced, not those that were internally prepared by the creditor. Moreover, "good faith" as used in footnote 45a requires some effort on the part of the creditor to independently verify the accuracy of the calculation tool.◀

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Section 226.24—Advertising.

* * * * *

24(b) Advertisement of Rate of Finance Charge.

* * * * *

►5. *Discounted variable-rate transactions.* The advertised annual percentage rate for discounted variable-rate transactions must be determined in accordance with comment 18(f)–8. To promote the availability of the initial rate reduction in such transactions, creditors or other persons may apply the rules regarding buydowns in comment 24(b)–3 to show the reduced simple interest rate and its effect on the payment schedule without triggering the additional disclosures under § 226.24(c) of the regulation.◀

24(c) Advertisement of Terms That Require Additional Disclosures.

* * * * *

Paragraph 24(c)(1).

1. *Downpayment.* The dollar amount of a downpayment or a statement of the downpayment as a percentage of the price requires further information. [By virtue of the definition of "downpayment" in § 226.2, this triggering term is limited to credit sale transactions.] It includes such statements as:

- "Only 5 percent down"
- "As low as $100 down"
- "Total move-in costs of $800"

This provision applies only if a downpayment is actually required; statements such as "no downpayment" or "no trade-in required" do not trigger the additional disclosures under this paragraph.

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Subpart D—Miscellaneous

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Section 226.28—Effect on State Laws.

28(a) Inconsistent Disclosure Requirements.

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►11. *Preemption determination—Mississippi.* Effective October 1, 1984, the Board has determined that the following provision in the state law of Mississippi is preempted by the federal law:

- Section 83–19–32(2)(g)—Disclosure of finance charge. This disclosure is preempted in those cases in which the term "finance charge" would be used under state law to describe a different amount than the finance charge disclosed under federal law.

12. *Preemption determination—South Carolina.* Effective October 1, 1984, the Board has determined that the following provision in the state law of South Carolina is preempted by the federal law:

- Section 37–10–102(c)—Disclosure of due-on-sale clause. This provision is preempted, but only to the extent that the creditor is required to include the disclosure with the segregated federal disclosures. If the creditor may comply with the state law by placing the due-on-sale notice apart from the federal disclosures, the state law is not preempted.◀

* * * * *

Board of Governors of the Federal Reserve System, November 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-32188 Filed 12-5-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANE-26]

Amend the Description of the Hartford, Connecticut 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the description of the 700-foot transition area at Hartford, Connecticut. The microwave landing system/distance measuring equipment (MLS/DME) Runway 22 instrument approach procedure (SIAP) to Rentschler Field, East Hartford, Connecticut, is being changed and will require alteration of the Hartford 700-foot transition area to contain Instrument Flight Rules (IFR) arrival procedures.

DATE: Comment must be received on or before December 30, 1983.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE–7, Attention: Rules Docket Clerk, Docket No. 83–ANE–26.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Chief, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before December 30, 1983, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to change the description of the 700-foot transition area at Hartford, Connecticut. This amendment is necessary to provide airspace protection for aircraft executing MLS/DME Runway 22 AMDT 1 SIAP at Rentschler Field, East Hartford, Connecticut.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations [14 CFR Part 71] as follows:

Hartford, Connecticut

Delete after the words "runway threshold" the following:

"* * * and within 4.5 miles each side of Runway 22 centerline extended from the 9 mile radius to 10 miles northeast of the runway threshold;"

Insert after the words "runway threshold" the following:

"* * * and within 5 miles each side of Runway 22 centerline extended from the 9 mile radius to 11 miles northeast of the runway threshold;"

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 USC 1348(a) and 1354(a)); (49 USC 106(g) (Revised Pub. L. 97-449, January 12, 1983)), and 14 CFR 11.69)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) if promulgated will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on November 18, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-32393 Filed 12-5-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-20]

Transition Area; Oberlin, Kansas, Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Oberlin, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Oberlin, Kansas, Municipal Airport utilizing the Oberlin nondirectional radio beacon (NDB) as a navigational aid. This proposed action will change the airport status from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

DATES: Comments must be received on or before January 9, 1984.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale Carnine, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Oberlin, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Oberlin, Kansas, Municipal Airport utilizing the Oberlin NDB as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Oberlin, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

Oberlin, Kansas

That airspace extending upward from 700 feet above the surface within 5.5 mile radius of the Oberlin Municipal Airport (latitude 39°50'00"N, longitude 100°32'19"W) and within 3 miles each side of the 194° bearing from the Oberlin NDB (latitude 39°49'46"N, longitude 100°32'00"W) extending from the 5.5 mile radius area to 8.5 miles southwest of the NDB facility.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

Note.— The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on November 25, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-32389 Filed 12-5-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 291, 296, 297

[EDR-469; Economic Regulation Docket: 41797]

Domestic Air Transportation; Indirect Air Transportation of Property; Foreign Air Freight Forwarders and Foreign Cooperative Shippers Association

Dated: November 8, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to exempt air carriers providing interstate cargo transportation within Alaska and within Hawaii from the statutory prohibition against unjust discrimination in air service. The CAB is further proposing to exempt indirect cargo carriers from that provision for their domestic operations. These carriers are the only ones in domestic transportation still subject to the prohibition. This action would make the treatment of all carriers consistent.

DATES: Comments by: January 20, 1984. Reply comments by: February 6, 1984.

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

Requests to be put on Service List by: December 21, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41797, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules & Legislation, Civil Aeronautics Board, 1825 Connecticut Ave. NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Section 404(b) of the Federal Aviation Act, 49 U.S.C. 1374(b), prohibits unjust discrimination in air transportation. Under section 1601 of the Act, however, domestic passenger service, including that in Hawaii and Alaska, is no longer subject to section 404(b). The Board, by a rule adopted contemporaneously with this notice, exempted domestic direct cargo air carriers (except in those States) from section 404(b). As with other domestic cargo transportation, there appears not to be any reason to distinguish between cargo and passenger service in Hawaii and Alaska in this regard. The Board has also proposed to end another distinction for those States by exempting cargo carriers in Alaska and Hawaii from the requirement to file their prices in tariffs.

With all other carriers in domestic transportation exempt from section 404(b), it appears anomalous and potentially confusing for shippers in one or two States to be able to file a complaint with the Board, while other shippers are unable to do so.

The Board tentatively also believes that indirect cargo air carriers should no longer be subject to section 404(b). Forwarders accept a shipment and then transport it on a direct carrier. Since the direct carrier is exempt from section 404(b) for domestic transportation, shippers would thus be subject to differing procedures on the same shipment. It appears that, for the same reasons explained for carriers in Hawaii and Alaska, indirect cargo carriers should also be exempt from section 404(b) for domestic transportation.

The Board authorizes foreign indirect air carriers, under Part 297, to operate in domestic air transportation if their home country grants such rights to U.S. indirect air carriers. In general, the Board's policy has been to allow both classes to compete on the same terms, once the authorization is granted. The Board is therefore proposing here to amend Part 297 to exempt foreign forwarders from section 404(b).

The Board is, therefore, proposing to amend its rules for domestic cargo transportation in Part 291 and for indirect cargo transportation in Part 296 and Part 297 to relieve these carriers from the requirements of section 404(b) with respect to their domestic cargo service.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that none of the proposed changes, if adopted, will have a significant economic impact on a substantial number of small entities. Small air carriers, such as air taxi operators, are already exempt from this provision. Because the exemption does not remove the common law discrimination jurisdiction, the effect on any small shippers should be small.

List of Subjects in 14 CFR Parts 291 and 296

Air carriers, Antitrust, Freight, Freight forwarders, Insurance, Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 291, *Domestic Cargo transportation*, Part 296, *Indirect Air Transportation of Property*, and Part 297, *Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations*, as follows:

PART 291—[AMENDED]

1. In Part 291, paragraph (a)(2) of § 291.31 would be revised to read:

§ 291.31 Exemptions from the Act for direct air carriers.

(a) * * *

(2) Section 404, except for the requirement to provide safe and adequate service, equipment, and facilities in connection with domestic cargo air transportation.

PART 296—[AMENDED]

2. In Part 296, subparagraph (a)(3) of § 296.10 would be revised to read:

§ 296.10 Exemption from the Act.

(a) * * *

(3) Subsection 404(b) (nondiscrimination) with respect to foreign air transportation.

* * * * *

PART 297—[AMENDED]

2. In Part 297, a new § 297.10(a)(6) would be added, to read:

§ 297.10 Exemption from the Act.

(a) * * *

(6) Subsection 404(b) (nondiscrimination) with respect to interstate and overseas air transportation.

(Secs. 101, 102, 204(a), 401, 402, 403, 408, 409, 412, and 416(b), Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 767, 768, 770, 771; 49 U.S.C. 1301, 1302, 1324, 1371, 1372, 1373, 1378, 1379, 1382, 1386)

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 83-32460 Filed 12-5-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-136; Utah-5]

High-Cost Gas Produced From Tight Formations; Utah

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Utah that the Dakota Formation be designated as a tight formation under § 271.703(d). Utah held a hearing subsequent to the original Notice of Proposed Rulemaking to receive supplemental evidence in response to questions raised by Commission staff and has resubmitted its recommendations.

DATE: Comments on the proposed rule are due on January 16, 1984.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued: November 30, 1983.

I. Background

On August 18, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Dakota Formation located in Grand and Unitah Counties, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, a Notice of Proposed Rulemaking was issued on September 22, 1982, to determine whether Utah's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service, concurred with Utah's recommendation. Three comments were submitted for this notice, all in support of the recommendation and no requests for a hearing were made.

On April 4, 1983, Commission staff requested that Utah submit supplemental information to support all prestimulation flow rates submitted for those wells shown in Exibit J and Exhibit K of the application since a sample of well completion reports reviewed by Commission staff at the office of the Utah Division of Oil, Gas and Mining indicated discrepancies with the data filed.

On June 23 and June 24, 1983, Utah held a hearing on the subject formation's recommendation. After the hearing, however, Utah made no changes in its original recommendation although it did supplement the record before the Commission with additional data on September 19, 1983. Three parties appeared at the rehearing to protest the recommendation. The United States Department of the Interior, Bureau of Land Management, now charged with responsibility over the federal portion of the designated area, recommended to the Commission in a letter dated August, 10, 1983, that the application be denied. Utah's recommendation and the additional supporting data as well as the data presented by the parties in protest of the recommendation are on file with the Commission and are available for public inspection.

In light of these circumstances a Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Dakota Formation be designated a tight formation should be adopted. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands of Grand and Uintah Counties, Utah. The recommended area contains 1,062,400 acres located in the general area of Townships 11 through 18 South and Ranges 17 through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

The vertical limits of the Dakota Formation are defined by the Dakota Silt Formation above and the Morrison Formation below. The average depth to the top of the productive zone is 7,137 feet and the average thickness of the Dakota Formation is approximately 200 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. TGF-104 convened by Utah on this matter demonstrated that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah asserts that, based on averaging techniques and on cumulative frequency distributions of well production data for those wells drilled and completed in the Dakota Formation, the stabilized production rate will not exceed the maximum allowable production rate set out in the regulations. The United States Department of the Interior, Bureau of Land Management, maintains that the average prestimulation flow rate exceeds the allowable production rate set out in the regulations. Preliminary Commission staff analysis of the data submitted by Utah indicates that the recommended formation may not satisfy the production guidelines set forth in § 271.703(c)(2)(i)(B) when the straight arithmetic average methodolgy is used.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶30,180 (1980), issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Dakota Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 16, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–136 (Utah–5), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the even Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(187) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations.

* * * * *

(187) *Dakota Formation in Utah.* RM79–76–136 (Utah–5).

(i) *Delineation of formation.* The Dakota Formation is located in grand and Uintah Counties, Utah, and is in the general area of Townships 11 South through 18 South and Ranges 17 East through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

(ii) *Depth.* The Dakota Formation's vertical limits are defined by the Dakota Silt Formation above and the Morrison Formation below. The average thickness throughout the proposed area is approximately 200 feet and the average depth to the top of the Dakota Formation is 7,137 feet.

[FR Doc. 83–32365 Filed 12–5–83; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–137; Utah–6]

High-Cost Gas Produced From Tight Formations; Utah

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission, is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Utah that the Morrison Formation be designated as a tight formation under § 271.703(d). Utah held a hearing subsequent to the original Notice of Proposed Rulemaking to receive supplemental evidence in response to questions raised by Commission staff and has resubmitted its recommendation.

DATE: Comments on the proposed rule are due on January 16, 1984.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: November 30, 1983.

I. Background

On August 18, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 C.F.R. 271.703 (1983)), that the Morrison Formation located in Grand and Uintah Counties, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, a Notice a Proposed Rulemaking was issued on September 22, 1982, to determine whether Utah's recommendation that the Morrison Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service, concurred with Utah's recommendation. Three comment were submitted for this notice, all in support of the recommendation and no requests for a hearing were made.

On April 4, 1983, Commission staff requested that Utah submit supplemental information to support all prestimulation flow rates submitted for those wells shown in Exhibit J and Exhibit K of the application since a sample of well completion reports reviewed by Commission staff at the

office of the Utah Division of Oil, Gas and Mining indicated discrepancies with the data filed.

On June 23 and June 24, 1983, Utah held a hearing on the subject formation's recommendation. After the hearing Utah made no changes in its original recommendation although it did supplement the record before the Commission with additional data on September 19, 1983. Three parties made an appearance at this hearing to protest the recommendation. The United States Department of the Interior, Bureau of Land Management, now charged with responsiblity over the federal portions of the designated area recommended to the Commission in a letter dated August 10, 1983, that the application be denied. Utah's recommendation and the additional supporting data as well as the data presented by the parties in protest of the recommendation are on file with the Commission and are available for public inspection.

In light of these circumstances a Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Morrison Formation be designated a tight formation should be adopted. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands of Grand and Uintah Counties, Utah. The recommended area contains 1,062,400 acres located in the general area of Townships 11 through 18 South and Ranges 17 through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

The vertical limits of the Morrison Formation are defined by the Dakota Formation above and the Jurassic Entrada Formation below. The average depth to the top of the productive zone is 7,349 feet and the average thickness of the Morrison Formation is approximately 600 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. TGF-104 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah asserts that, based on averaging techniques and on cumulative frequency distributions of well production data for those wells drilled and completed in the Morrison Formation, the stabilized production rate will not exceed the maximum allowable production rate set out in the regulations. The United States Department of the Interior, Bureau of Land Management, maintains that the average prestimulation flow rate exceeds the allowable production rate set our in the regulations. Preliminary Commission staff anlaysis of the data submitted by Utah indicates that the recommended formation satisfies the production guidelines set forth in § 271.705(c)(2)(i)(B) when the straight arithmetic average methodolgy is used.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Morrison Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 16, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–137 (Utah-6), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Utah's recommendation is adoped.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(137) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(188) *Morrison Formation in Utah.* RM79–76–137 (Utah-6).

(i) *Delineation of formation.* The Morrison Formation is located in Grand and Uintah Counties, Utah, and is in the general area of Townships 11 South through 18 South and Ranges 17 East through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

(ii) *Depth.* The Morrison Formation's vertical limits are defined by the Dakota Silt Formation above and the Morrison Formation below. The average thickness throughout the proposed area is approximately 600 feet and the average depth to the top of the Morrison Formation is 7,349 feet.

[FR Doc. 83-32386 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-220; Texas—10 Addition III]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Edwards Limestone Formation located in the Kenedy S.W. (Edwards) Field, Karnes County, Texas be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on January 16, 1984.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 15, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: November 30, 1983.

I. Background

On September 20, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that an additional area of the Edwards Limestone Formation located in the Kenedy S.W. (Edwards) Field in Karnes County, Texas be designated as a tight formation. The Commission previously adopted recommendations that the Edwards Limestone Formation in Dewitt, Karnes, Lavaca, and Live Oak Counties, Texas be designated as tight formations in Order Nos. 173, and 317 issued September 18, 1981 and July 22, 1983, respectively. On January 13, 1982, the Commission issued a Notice of Proposed Rulemaking for an additional area of the Edwards Limestone Formation in Fayette County, Texas, which was recommended by Texas for designation as a tight formation [Docket No. RM79–76 (Texas—10 Addition)]. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of Edwards Limestone Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Edwards Limestone Formation located in the Kenedy S.W. (Edwards) Field in Karnes County, Texas, Railroad Commission District 2, be designated as a tight formation. The recommended area is located seven miles southwest of the town of Kenedy, Texas. The area is all of that portion of the Kenedy S.W. (Edwards) Field within the area encompassed by a circle 1.5 miles radially distant from and centered upon the Estelle Rolf Gas Unit No. 2, Well No. 2. The Estelle Rolf Gas Unit No. 2, Well No. 2 is located in the Carlos Martinez Survey A–6, Estelle Rolf Lease, at a point 660 feet from the southwest leaseline and 1,250 feet from the southeast leaseline.

The recommended portion of the Edwards Limestone Formation is part of the Stuart City Trend consisting of carbonate rocks of Lower Cretaceous age. The Edwards Limestone Formation is overlain by the Georgetown Formation and underlain by the Pearsal Formation.

The top of the recommended portion of the Edwards Limestone Formation ranges from 12,500 feet to 13,500 feet below sea level.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on March 22, 1983, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Texas that the Edwards Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 16, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–220 (Texas—10 Addition III) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 15, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(48) (iv) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(48) *Edwards Limestone Formation in Texas.* RM79-76 (Texas—10)

* * * * *

(v) *Kenedy S.W. (Edwards) Field, Karnes County.*

(A) *Delineation of formation.* The recommended portion of the Edwards Limestone Formation is located seven miles southwest of the town of Kenedy, in Karnes County, Texas, Railroad Commission District 2. The designated area is all of that portion of the Kenedy S.W. (Edwards) Field within the area encompassed by a circle 1.5 mile radially distant from and centered upon the Estelle Rolf Gas Unit No. 2, Well No. 2. The Estelle Rolf Gas Unit No. 2, Well No. 2 is located in the Carlos Martinez Survey A-6, Estelle Rolf Lease, at a point 660 feet from the southwest leaseline and 1,250 ft. from the southeast leaseline.

(B) *Depth.* The top of the Edwards Limestone Formation ranges from 12,500 feet to 13,500 feet below sea level. The Estelle Rolf Gas Unit Well No. 1 penetrates the entire Edwards Limestone section, which exhibits a thickness of approximately 660 feet in that well.

[FR Doc. 83-32387 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 161

[Docket No. 83N-0349]

Quick Frozen Fillets of Ocean Perch; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

Correction

In FR Doc. 83-31676 beginning on page 53576 in the issue of Monday, November 28, 1983, make the following correction on page 53578: In the first column, in the "Recommended Defect Table", under the entry for "1. Bones: (a) Boneless Fillets:", the second entry should have a "4" in the right-hand column.

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S106]

Electrical Standards for Construction; Extension of Comment Period and Correction of Proposal

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of comment period and corrections to the notice of proposed rulemaking.

SUMMARY: This notice extends the time in which written comments and requests for a hearing may be submitted on the proposed revision of the electrical standards for construction. It also included a list of corrections to the Notice of Proposed Rulemaking as published in the **Federal Register** (48 FR 45872) on October 7, 1983.

DATE: Written comments and hearing requests must be postmarked by December 31, 1983.

ADDRESS: All comments, objections, and hearing requests should be sent in quadruplicate to: Docket Officer, Docket S106; Rm. S6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Foster, U.S. Department of Labor, OSHA, Rm. N3637, 200 Constitution Avenue, NW., Washington, D.C. 20210; (202-523-8151).

SUPPLEMENTARY INFORMATION: When the proposed revisions of Subpart K of 29 CFR Part 1926 were published (48 FR 45872), OSHA established a 45-day comment period, extending through November 21, 1983. However, OSHA has since received written requests for extensions of the comment period. OSHA has decided that, to receive comments from as many interested persons as possible, an extension will be given for written comments and hearing requests. Therefore, comments on the proposal and requests for a public hearing must be postmarked by December 31, 1983. They should be sent in quadruplicate to the Docket Officer at the address given previously.

In addition to extending the comment period, this notice contains corrections to the Notice of Proposed Rulemaking as published in the **Federal Register** on October 7, 1983.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupationl Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Authority: This document is issued under Section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Section 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911.

Signed at Washington, D.C. this 30th day of November 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

In FR Doc. 83-26986 appearing at pages 45872 et seq. of the **Federal Register** of October 7, 1983, the following changes should be made:

Section	FR page	Column and line	Correction
Preamble	45872	1st, 10 from top	After the title "**summary:**" add "the".
Preamble	45872	1st, 19 from top	Change "electrical" to "Electrical".
Preamble	45872	2d, 23 from bottom	Change "milliampers" to "milliamperes".
Preamble	45872	3d, 17 from top	Change "event" to "even".
Preamble	45872	3d, 3 from bottom	After the word "Nature" add "of".
Preamble	45873	1st, 3 from top	Change "futher" to "further".
Preamble	45873	1st, 16 from top	Change "unual" to "usual".

Section	FR page	Column and line	Correction
Preamble	45873	1st, 25 from top	Change "for" to "or".
Preamble	45873	1st, 41 from top	Change "to" to "too".
Preamble	45873	1st, 45 from top	Change "originially" to "originally".
Preamble	45873	1st, 9 from bottom	Change "increases" to "increase".
Preamble	45873	2d, 5 from top	Before "protection" add "of".
Preamble	45873	2d, 18 from bottom	Change "ordrr" to "order".
Preamble	45873	2d, 6 from bottom	Change "NCE" to "NEC".
Preamble	45874	1st, 8 from bottom	Change "limitation" to "limitations".
Preamble	45874	2d, 18 from bottom	Change "Order" to "Other".
Preamble	45874	2d, 14 from bottom	Change "under ground" to "underground".
Preamble	45874	3d, 8 from bottom	Change §§ 1926.449 to § 1926.449.
Preamble	45875	1st, 34 from top	Change "standards" to "standard".
Preamble	45875	1st, 35 from top	Change "forthother" to "forth other".
Preamble	45875	1st, 40 from top	After "NEC" add "For example * * *"—No paragraph.
Preamble	45875	3d, 7 from top	Change "1916.404(f)(7)" to "1926.404(f)(7)".
Preamble	45875	3d, 38 from top	Change "1926.405(a)(2)(ii)(j)" to "1926.405(a)(2)(ii)(J)".
Preamble	45875	3d, 52 from top	Change "1926.405(a)(2)(ii)(b)" to "1926.405(a)(2)(ii)(B)".
Preamble	45875	3d, 53 from top	Change "1926.405(a)(2)(ii)(e)" to "1926.405(a)(2)(ii)(E)".
Preamble	45875	3d, 55 from top	Change "1926.405(a)(2)(ii)(j)" to "1926.405(a)(2)(ii)(J)".
Preamble	45875	3d, 56 from top	Change "1926.405(a)(2)(ii)(f)" to "1926.405(a)(2)(ii)(F)".
Preamble	45875	3d, 61 from top	Change "1926.405(a)(2)(ii)(g)" to "1926.504(a)(2)(ii)G)".
Preamble	45875	3d, 64 from top	Change "1926.405(a)(2)(ii)c)" to "1926.405(a)(2)(ii)(C)".
Preamble	45875	3d, 20 from bottom	Change "1926.405(a)(2)(ii)(i)" to "1926.405(a)(2)(ii)(I)".
Preamble	45875	3d, 17 from bottom	Change "1926.405.(a)(2)(ii)(b) and (i)" to "1926.405(a)(2)(ii)(B) and (I)".
Preamble	45875	3d, 16 from bottom	Change "1926.405(j)(1)(ii)" to "1926.405(j)(1)(iii)".
Preamble	45875	3d, 13 from bottom	Change "1926.405(a)(2)(ii)(i)" to "1926.405(a)(2)(ii)(I)".
Preamble	45875	3d, 2 from bottom	Change "1926.43(d)(f)" to "1926.403(d)(f)".
Preamble	45876	1st, 6 from top	Change "1926.405(j)(5)." to "by 1926.405(j)(5)".
Preamble	45876	1st, 7 from top	Change "subparts" to "Subparts".
Preamble	45876	1st, 10 from top	Change "part" to "parts".
Preamble	45876	1st, 12 from top	Change "CFDR" to "CFR".
Preamble	45876	2d, 31 from bottom	Change "(a)(2)(ii)(c)" to "(a)(2)(ii)(C)".
Preamble	45876	2d, 20 from bottom	Change "(a)(2)(ii)(h)" to "(a)(2)(ii)(H)".
Preamble	45876	2d, 6 from bottom	Change "metalclad" to "metal-clad".
Preamble	45876	2d, 4 from bottom	Change "(a)(2)(ii)(g)" to "(a)(2)(ii)(G)".
Preamble	45876	3d, 25 from top	Change "Appreratus" to "Apparatus".
Preamble	45877	1st, 20 from top	Change "chapter in" to "chapter is".
Preamble	45877	1st, 7 from bottom	Change "test" to "testing".
Preamble	45877	1st, 6 from bottom	Change "Additionallly" to "Additionally".
Preamble	45877	2d, 29 from top	Change "subparts" to "Subparts".
Preamble	45877	3d, 25 from top	Change "§ 1926.405(a)(2)(ii)(b)" to "§ 1926.405(a)(2)(ii)(B)".
Preamble	45877	3d, 38 from top	Change "§"1926.405(a)(2)(ii)(b)" to "§ 1926.405(a)(2)(ii)(B)".
Preamble	45878	3d, 6 from top	Change "Overiew" to "Overview".
Preamble	45878	3d, 36 from top	Change "of" to "or".
Preamble	45879	1st, 7 from top	Change "estimated" to "estimate".
Preamble	45879	1st, 29 from top	Change "§ 265.2"to "§ 287.2".
Preamble	45879	1st, 44 from top	Change "inflaction" to "inflation".
Preamble	45879	2d, 20 from top	Change "comparision" to "comparison".
Preamble (Tsble)	45879	3d, 5 from top	Change "1926.404(c)(1)(iii)(d)" to "1926.404(c)(1)(iii)(D)".
Preamble (Table)	45879	3d, 5 from top	Change "for" to "from".
Preamble (Table)	45879	3d, 6 from top	Change "grounds" to "ground".
Preamble (Table)	45879	3d, 12 from top	Delete")" after reduction.
Preamble (Table)	45879	3d, 14 from top	Change "1926.404(f)(7)(iii)(f)(3)" to "1926.404(f)(7)(iii)(F)(3)".
Preamble (Table)	45879	3d, 19 from top	Change "1926.405(a)(2)(ii)(c)"to "1926.405(a)(2)(ii)G)".
Preamble (Table)	45879	3d, 22 from top	Change "1926.405(a)(2)(ii)(g)" to "1926.405(a)(2)(ii)(G)".
Preamble (Table)	45880	1st, 6 from bottom	Change "etial" to "etical".
Preamble	45881	1st 12 from top	Change "November 19" to "November 21".
Preamble	45881	1st, 14 from top	Change "No.106" to "No.S106".
Preamble	45881	1st, 29 from top	Change "of" to "and".
Preamble	45881	1st, 38 from top	Change "November 19" to "November 21".
1926.351	45881	2d, 22 from bottom	Change "Are" to "Arc".
1926.400 and 1926.404	45881	3d, 13 from top	Change "follow" to "follows".
Subpart K—Electrical	45881	3d, 22 from bottom	Change "1926.4441 Batteries" to "1926.441 Battery locations".
1926.403	45882	2d, 33 from bottom	Change "opening" to "openings".
1926.403	45882	2d, 28 from bottom	Change "splices" to "spliced".
1926.403	45882	2d, 8 from bottom	Add "," after name.
1926.403	45882	2d, 4 from bottom	Change "marking" to "markings".
1926.403	45882	3d, 16 from top	Change "environoment" to "environment".
1926.403	45883	1st, 6 from top	Change "of" to "or".
1926.403	45883	1st, 6 from bottom	Add "," after "nominal".
1926.403	45883	2d, 4 from top	Change "intallations" to "installations".
1926.403	45883	2d, 10 from top	Change "person" to "persons".
1926.403	45883	2d, 15 from top	Change "enterances" to "entrances".
1926.403	45883	2d, 23 from top	Change "intallations" to "installations".
1926.403	45883	2d, 7 from bottom	Change "od doors of" to "of doors or".
1926.403	45883	2d, 1st at bottom	Change "controller" to "controllers".
1926.403	45883	3d, 2d from top	Change "unles" to "unless".
1926.403	45883	3d, 19 from bottom	Change "traning" to "turning".
1926.404	45884	1st, 5 from bottom	Change "use" to "used".
1926.404	45885	1st, 30 from top	Change "Ground" to "Grounded".
1926.404	45885	2d, 24 from top	Change "paragraph" to "paragraphs".
1926.404	45885	3d, 13 from top	Sentence "Under the . . . by the generator." should not be in italics.
1926.404	45885	3d, 25 from bottom	Change "bonnded" to "bonded".
1926.404	45886	2d, 4 from top	Change "case" to "cases".
1926.405	45887	3d, 18 from top	After the word "hard" add "or".
1926.405	45887	3d, 15 from bottom	Change "Box" to "Boxes".
1926.405	45888	1st, 23 from top	Change "switched" to "switches".
1926.405	45888	1st, 30 from top	Change "mositure" to "moisture".
1926.405	45888	1st, 36 from top	Change "weather proof" to "weatherproof".
1926.405	45888	3d, 25 from top	Change "cleat-tpye" to "cleat-type".
1926.405	45888	3d, 40 from top	Change "conductors" to "conductor".
1926.405	45889	1st, 22 from top	Change "currentcarrying" to "current-carrying".
1926.405	45889	1st, 33 from top	After the word "motors," add "motor".
1926.405	45889	1st, 39 from top	After "(A)" add "A".
1926.406	45890	1st, 5 from top	Change "hoist" to "hoists".

Section	FR page	Column and line	Correction
1926.406	45890	1st, 3 from bottom	Change "gounded" to "grounded".
1926.407	45890	3d, 24 from top	Change "(classified locations," to "(classified) locations,"
1926.407	45890	3d, 42 from top	Change "appoved" to approved".
1926.407	45890	3d, 5 from bottom	Delete "I" before "such".
1926.407	45890	3d, 1st at bottom	Delete "I" before "degrees".
1926.407	45891	1st, 16 from top	Before "Class III" add "and".
1926.407	45891	1st, 20 from top	Change "whichis" to "which is".
1926.407	45891	1st, 29 from top	Change "installation" to "installations".
1926.407	45891	1st, 30 from top	Change "the" to "The".
1926.407	45891	1st, 35 from top	Change "Wiring" to "wiring".
1926.407	45891	1st, 38 from top	Change "rmotor" to "motor".
1926.407	45891	1st, 42 from top	Change "carane" to cranes".
1926.407	45891	1st, 44 from top	Change "system" to "systems".
1926.407	45891	1st, 46 from top	Change "systemrsd" to systems".
1926.407	45891	1st, 47 from top	Change "protgection" to protection".
1926.407	45891	1st, 49 from top	Change "mean" to "means".
1926.407	45891	1st, 53 from top	Change "wrenchtight" to "wrench tight".
1926.408	45891	1st, 59 from top	Change "section" to "section".
1926.408	45891	1st, 4 from bottom	Change "incablebus" to "in cablebus".
1926.408	45891	2d, 2 from top	Change "coanductors" to "conductors".
1926.408	45891	2d, 3 from top	Change "installecd in location" to "installed in locations".
1926.408	45891	2d, 4 from top	Change "person" to "persons" and "shileding" to "shielding"
1926.408	45891	2d, 7 from top	Change "insualted" to "insulated".
1926.408	45891	2d, 8 from top	Change "haviang" to "having a".
1926.408	45891	2d, 9 from top	Change "coavering" to "covering".
1926.408	45891	2d, 13 from top	Change "Conductor" to "Conductors" and "form" to "from".
1926.408	45891	2d, 18 from top	Change "extendig" to "extending".
1926.408	45891	2d, 23 from top	Change "enclosure" to "enclosures".
1926.408	45891	2d, 31 from top	Change "close" to "closed".
1926.408	45891	2d, 32 from top	Change "shal" to "shall".
1926.408	45891	2d, 33 from top	Change "coutouts" to "cutouts".
1926.408	45891	2d, 43 from top	Change "interruptrer" to "interrupter".
1926.408	45891	2d, 51 from top	Change "the" to "The".
1926.408	45891	3d, 10 from top	Change "installation" to "installations".
1926.408	45892	1st, 21 from top	Change "AC oil DC" to "AC or DC".
1926.408	45892	1st, 32 from top	Change "paragraph" to "paragraphs".
1926.408	45892	1st, 17 from bottom	Change "§ 1926.404(c)(1)(ii)" to "§ 1926.404(c)(1)(ii)".
1926.416	45892	3d, 19 from top	Change "provide" to "provided".
1926.416	45892	3d, 8 from bottom	Change "fstened" to "fastened".
1926.417	45892	3d, 3 from bottom	Change "or" to "of".
1926.441	45893	2d, 15 from top	Change "spiled" to "spilled".
1926.449	45893	2d, 6 from bottom	Change "determined" to "determined".
1926.449	45894	1st, 24 from top	Change "Cercuit" to "Circuit".
1926.449	45894	2d, 3 from top	Change "room" to "rooms".
1926.449	45894	2d, 14 from top	Change "close" to "closed".
1926.449	45894	2d, 21 from bottom	Change "through" to "though".
1926.449	45894	2d, 17 from bottom	Change "condidered" to "considered".
1926.449	45894	3d, 28 from bottom	Change "of failure of" to "or failure of".
1926.449	45895	2d, 17 from top	Change "and" to "an".
1926.449	45895	3d, 35 from top	After the words "and/or" delete the word "to".
1926.449	45895	3d, 42 from top	After the words "and/or" add "to".
1926.449	45896	1st, 30 from bottom	Change "of" to "or".
1926.449	45896	1st, 17 from bottom	Change "(a)" to "(i)".
1926.449	45896	1st, 12 from bottom	Change "(b)" to "(ii)".
1926.449	45896	1st, 6 from bottom	Change "(c)" to "(iii)".
1926.449	45896	3d, 26 from top	Change "wire" to "wires".
1926.449	45897	2d, 26 from bottom	Change "hs" to "has".
1926.449	45897	2d, 22 from bottom	Change "Switch" to "switch".
1926.449	45897	2d, 18 from bottom	After the word "at" add "the".
1926.449	45897	3d, 1 at top	Change "utilizations" to "utilization".
1926.449	45897	3d, 14 from top	After the word "or" add "a".

[FR Doc. 83-32286 Filed 12-5-83; 8:45 am]
BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2481-3; MO 987]

Approval and Promulgation of Missouri State Implementation Plan (SIP) For Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal to disapprove a portion of the Missouri Lead SIP—correction.

SUMMARY: This notice corrects the text of a proposed action which was published October 21, 1983 (48 FR 48981). That action proposed to disapprove the control strategy for the ASARCO primary lead smelter in the Missouri lead SIP. The corrections are necessary so that the notice accurately describes the area surrounding the smelter.

DATE: These two corrections do not change the meaning of the action as originally proposed, and, therefore, comments on the proposal are still due on or before December 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106, or call (816) 374-3791, FTS 758-3791.

The following corrections are made in the "Proposal to Disapprove a Portion of the Missouri Lead SIP," published in the **Federal Register** of October 21, 1983. One item to be corrected appears on page 48981 under SUPPLEMENTARY INFORMATION; "The Modeling for ASARCO", in column three, the second full paragraph. After the sentence, "Receptors for the ISCLT were located around the periphery of the ASARCO property line and at discrete points of interests within the outer periphery," an additional sentence should be inserted as follows: ASARCO owns

approximately 4,000 acres of land with the smelter operation situated at approximately the center of this parcel. The next sentence should be corrected to read: Also located within the outer boundary are smaller parcels of land not owned by ASARCO. The other items to be corrected appears on page 48982, the first full paragraph, the second sentence. The word "uninhibited," should be changed to uninhabited.

Dated: November 14, 1938.

Morris Kay,

Regional Administrator.

[FR Doc. 83-32222 Filed 12-5-83; 8:45 am]

BILLING CODE 6560-50-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR CH. 7

Recovery of Cash Advances

AGENCY: Agency for International Development (AID).

ACTION: Proposed rule.

SUMMARY: AID proposes to revise its contract clause governing cash advances (as opposed to Federal Reserve Letters of Credit, which are not affected by this proposed rule) with educational institutions. The revision would:

Establish a new requirement for the educational institution to certify on each voucher that the amount of the advance is not in excess of its current needs;

Outline the system of follow-ups, and notifications used by AID to monitor cash advances; and

Notify educational institutions of the potential for an interest charge on unrepaid balances of cash advances determined to be overdue.

DATE: Comments on this proposed rule are due 60 days after publication of this proposed rule in the **Federal Register**.

ADDRESS: Comments should be addressed to: M/SER/CM/SD/POL, Room 713, Sa-14, Agency for International Development Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT: J.M. Kelly, M/SER/CM/SD/POL, Agency for International Development, Washington, D.C. 20523, Telephone (703) 235-9107.

SUPPLEMENTARY INFORMATION: The changes in the proposed rule were developed by AID's Office of Financial Management to ensure that AID's system for managing cash advances is in accordance with applicable Treasury directives concerning cash management.

The changes will affect only educational institutions whose contracts with AID are financed by cash advances. Advances by Federal Resesve Letter of Credit are not affected. We estimate that few contractors will be affected by this proposed rule, first, because its application is limited to educational institutions, second, because the majority of advance payments under AID contracts with educational institutions are made by Federal Reserve Letter of Credit, and not by cash advance. On this basis, we can predict that, under the Regulatory Flexibility Act, the proposed rule will not have a significant impact on a substantial number of small entities.

The proposed rule has been reviewed against the policies set forth in paragraphs (1) through (8) of Section 2 of the Office of Federal Procurement Policy Act, and complies with the requirements of OFPP Policy Letter 80-5.

List of Subjects in 41 CFR Chapter 7

Government procurement.

PART 7-7—CONTRACT CLAUSES

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts With Educational Institutions

Section 7-7.5503-2 is proposed to be revised as follows:

§ 7-7.5503-2 Advance of funds.

When an advance of funds is to be made by other than a Federal Reserve Letter of Credit, use the following clause:

Advance of Funds (———— 1983)

(a) AID will, upon request from the contractor, in accordance with paragraph (b) of this clause, make an initial advance to the contractor in the amount stated in the contract schedule under the provisions of FPR 1-30.4 as it applies to educational institutions for research and development work. AID will thereafter reimburse the contractor an amount equal to reported expenditures in order to replenish the advance fund on an imprest basis. If at any time the authorized certifying officer (the AID official responsible for reviewing and certifying vouchers for payment) determines that (1) the amount of the initial advance is in excess of immediate requirements, and/or (2) through the advice and the personal knowledge of the AID project officer, the reported expenditures include items not allowable under the contract or interest is earned on funds advanced but not returned, such amount(s) may be reduced from subsequent reimbursement request(s). A copy of such Notice(s)/decision shall be provided to the Contracting Officer by the certifying officer. AID will replenish the fund on a quarterly basis (or other agreed interval) upon submission of documents prescribed in the clause of this contract entitled "Allowable Cost and Payment" until such time as the total amount of reimbursements together with the outstanding balance of the advance equals the amount of the AID commitment stated in the schedule. Thereafter, requests for reimbursement submitted by the contractor will not be reimbursed but will be applied to liquidate the remaining outstanding advance. In the event the total amounts of subsequent requests is insufficient to liquidate the amount of the outstanding advance, the contractor will refund the difference to AID in accordance with FPR 1-30.414-2(d).

(b) The contractor will submit to the paying office indicated on the contract cover page voucher form SF-1034 (original) and SF-1034(a) in three copies, properly executed, requesting an advance of funds in the agreed amount required to establish a working fund. The contractor shall certify in the voucher requesting the advance, and in each subsequent voucher, that the amount of the advance is not in excess of its current requirements. The final voucher will include either: (1) A certification that all funds advanced have been fully utilized and liquidated, and that no refund is due to AID; or (2) a statement that unliquidated, unobligated advance (i.e., outstanding advance) in a specified amount will be returned to AID. In either case, all advances must be accounted for in the final request.

(c) The contractor shall return any outstanding advance under (b)(2) of this clause within 30 days following the estimated completion date of this contract. The AID certifying officer will issue a memorandum to the contractor (with a copy to the Contracting Officer) on the estimated completion date to remind the contractor of this requirement.

If no refund or other satisfactory accounting for the outstanding advance is received within 30 days from issuance of the initial notice, the certifying officer will issue a second notification to the contractor, with a copy to the Contracting Officer. This second notification will advise the contractor that if the outstanding advance is not settled within 30 days of the date of the second notification, a bill for collection will be issued imposing a late payment charge at the percentage rate of the

current value of funds to the Treasury on the outstanding advance from the date of billing to the date of payment, if still not paid on/before the due date set on the bill for collection. If full payment is not received by AID within 90 days from the due date of the bill for collection, the following additional charges will be assessed: (1) The costs of processing and handling the delinquent bill for collection, and (2) a penalty charge of 6% per annum on the unpaid balance of the bill for collection.

(d) The contractor agrees that all interest earned on funds advanced will be promptly repaid to the Government. At no time may any such interest be retained by the contractor or used for any purpose.

Authority: This proposed rule is issued under 41 CFR 7-1.008-51, in accordance with OFPP Policy Letter 83-2.

Dated: November 23, 1983.

John F. Owens,

Associate Assistant to the Administrator for Management.

[FR Doc. 83-32449 Filed 12-5-83; 8:45 am]

BILLING CODE 8116-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2700

Sales—Federal Land Policy and Management Act; Amendment to the Sales Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rulemaking would amend the existing regulations to simplify the procedures for the disposal of public lands. The amendment would remove redundant or unnecessary requirements; would change the terms for payment for public lands; and would provide for more streamlined and efficient procedures.

DATE: Comments by February 6, 1983. Any comments postmarked or received after this date may not be considered in the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William F. Krech, (202) 343-8693; or Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would make a number of changes in the existing regulations on sales. It would amend the existing regulations in 11 respects.

(1) The proposed rulemaking would allow the public to nominate or request for disposal tracts not previously identified in land use plans for disposal. All new tracts that are nominated or requested would require an amendment to the land use plan to determine disposal suitability.

(2) To facilitate a better understanding of terms used in the proposed rulemaking, the proposed rulemaking adds three new terms to the definitions section of the existing regulations, auction, over-the-counter and realtor contract sales.

(3) The proposed rulemaking would amend the policy section to include criteria for determining when competitive, modified competitive or direct sales should be used. Sections 2711.3-1 and 2711.3-2 would be rewritten to reflect the proposed changes in competitive and modified sales. In addition, a new § 2711.3-3, covering "direct sales," would be added by the proposed rulemaking.

(4) Another change to the policy section would be an amendment that adds language allowing the authorized officer to determine the scope and specific documentation needed for appraisal, while maintaining the principles out-lined in the publication "Uniform Appraisal Standards for Federal Land Acquisitions."

(5) An amendment to the notice of realty action section would give the State Directors authority to notify the appropriate Members of Congress of the proposed sale.

(6) Language on segregation would be added to the section on notice of realty action to preclude public entry of public lands offered for sale after publication of the notice of realty action. This would make the lands more attractive to purchasers.

(7) A section would be added to allow a notice published under the Bureau of Land Management's land use planning regulations (§ 1610.5-5) to be substituted for the publication of the notice of realty action, thereby allowing the expediting of a sale. Any sales notice published under the land use planning regulations must be the functional equivalent of the notice of realty action required by the sales regulations.

(8) An amendment to the section requiring grazing permit or lease cancellation would require a two-year notice to a permittee or lessee if any part of the grazing permit or lease would be affected by the sale. Sales could be made of those lands, with the sale being conditioned upon continuance of the lease or permit.

(9) An amendment to the payment requirement in the section on competitive bidding would extend the permitted period for payment of the full purchase price from 30 days to up to 180 days. The experience of the Bureau of Land Management in its sales of public lands has shown that the 30-day requirement does not allow sufficient time for the purchasers to obtain the funds needed to complete the purchase. This restricts potential purchasers who would otherwise enter the market.

(10) Another amendment to the section on competitive bidding would remove the requirement that one-fifth of the purchase price accompany a sealed bid and would replace it with a requirement that the amount required to accompany the sealed bid be set in the notice of realty action. It would provide that the amount would not be less than 10 percent of the purchase price nor more than 30 percent of that price. The theory behind this amendment is that the payment submitted with the bid should be larger for less expensive tracts and smaller for the more expensive tracts to be equitable for all purchasers. The setting of the precentage would be based on a range; tracts valued at $10,000 or less, 30 percent; tracts valued at $10,000 to $100,000, 20 percent; and tracts with a value of more than $100,000, 10 percent.

(11) The section on notice of conveyance would be deleted because the requirements of that section duplicate efforts already expended in publishing and recording the patent or other document of conveyance with the appropriate local agency.

Many of the amendment made by this proposed rulemaking were suggested by the comments received in response to the notice of intent to propose rulemaking published in Federal Register of January 12, 1983 (48 FR 1324). The thirty comments made several suggestions and recommendations, all of which were given careful consideration as part of the decisionmaking process on this proposed rulemaking.

The principal author of this proposed rulemaking is William F. Krech, Division of Lands, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the

quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes that would be made by this proposed rulemaking are minor in nature and have equal impact on all parties seeking to buy public lands. The proposal to allow an extension of time for the payment of the full purchase price should benefit small businesses and small governmental entitites by giving them more time to obtain the needed financing for purchasing public lands.

This proposed rulemaking contains no information collection requirements requiring approval by the office of Management and Budget under 44 U.S.C. 3507.

List of Subject in 43 CFR Part 2710

Administrative practice and procedure, Grazing lands, Public lands—mineral resources, Public lands—sale.

PART 2700—[AMENDED]

Under the authority of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713), it is proposed to amend part 2710, Group 2700, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

§ 2710.0–5 [Amended]

1. Section 2710.0–5 is amended by adding new paragraphs (f), (g) and (h) to read:

* * * * *

(f) "Over-the-conter sales" means sales of lands that hve been offered at public sale but not sold. Such lands shall be offered only under competitive procedures under an acceptable method of bidding. No bidders shall be given special preference to purchase the lands offered under this process.

(g) "Realtor contract sales" means sales of lands offered under modified competitive procedures by a real estate broker under contract. Sales shall be made in a manner followed in similar commercial transactions. The authorized officer shall publish a notice of realty action in accordance with the procedures in § 2711.1–2 of this title. Said notice shall state that the sale is to be made through a real estate broker.

(h) "Auction sales" means competitive sales where qualified bidders are given an equal opportunity to submit an offer to purchase the offered lands and no bidder shall be given a special preference to purchase the lands.

§ 2710.0–6 [Amended]

2. Section 2710.0–6 is amended by:

a. Amending paragraph (b) by adding at the end of thereof the sentence "Nominations or requests to have specific tracts of public lands offered for sale may also be made by direct request to the authorized officer.";

b. Revising paragraph (c) to read:

* * * * *

(c)(1) The Federal Land Policy and Management Act (43 U.S.C. 1713(f)) provides that sales of public lands under this section shall be conducted under competitve bidding procedures established by the Secretary. However, where the Secretary determines it necessary and proper in order to assure equitable distribution among purchasers of lands, or to recognize equitable considerations or public policies, including but not limited to, a preference to users, he/she may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(i) The State in which the lands are located;

(ii) The local government entities in such State which are in vicinity of the lands;

(iii) Adjoining landowners;

(iv) Individuals; and

(v) Any other person.

(2) When a parcel of land meets the sale criteria of section 203 of the Federal Land Policy and Management Act (43 U.S.C. 1713), several factors shall be considered in determining the method of sale. These factors include, but are not limited to: competitive interest; needs of State and local governments; adjoining landowners historical uses; and equitable distribution of land ownership.

(3) Three methods of sale are provided for in § 2711.3 of this title: competitive; modified competitive; and direct (non-competitive). The policy for selecting the method of sale is:

(i) Competitive sale as provided in § 2711.3–1 of this title is the general procedure for sales of public lands and shall be used where there would be a number of interested parties bidding for the lands and (A) wherever in the judgment of the authorized officer the lands are accessible and useable regardless of adjoining land ownership and (B) wherever the lands are within a developing or urbanizing area and land values are increasing due to their location and interest on the competitive market.

(ii) Modified competitive sale as provided in § 2711.3–2 of this title may be used to permit the existing grazing user or adjoining landowner to meet the high bid at the public sale. This procedure will allow for limited competitive sales to protect on-going uses, to assure compatibility of the possible uses with adjacent lands, and avoid dislocation of existing users. Lands offered under this procedure would normally be public lands not located near urban expansion areas, or with rapidly increasing land values, and existing use of adjacent lands would be jeopardized by sale under competitive bidding procedures.

(iii) Direct sale as provided in § 2711.3–3 of this title may be used when the lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by State or local governments or non-profit corporations, or where necessary to protect existing equities in the lands or resolve inadvertent unauthorized use or occupancy of said lands.

(4) When lands have been offered for sale by one method of sale and the lands remain unsold, then the lands may be reoffered by another method of sale.

(5) In no case shall lands be sold for less than fair market value."

* * * * *

c. Amending paragraph (f) by inserting after the word *"Acquisitions"* the sentence "The method for each appraisal shall be determined by the authorized officer after consideration of the complexity of the case, the proposed method of sale and other factors pertinent to assuring a fair market value determination."

§ 2711.1 [Amended]

3. Section 2711.1–1 is amended by adding a new paragragh (c) to read:

* * * * *

C. Nominations or requests for sales of public lands may be made to the District office of the Bureau of Land Management for the District in which the public lands are located and shall specifically identify the tract being nominated or requested and the reason for proposing sale of the specific tract.

§ 2711.2 [Amended]

4. Section 2711.1–2 is amended by:

a. Revising paragraph (b) to read"

* * * * *

(b) Not less than 60 days prior to sale, the notice shall be sent to the Member of the United States House of

Representatives in whose district the public lands proposed for sale are located and the United States Senators for the State in which the public lands proposed for sale are located, the Senate and House of Representatives, as required by paragraph (f) of this section, to Governor of the State within which the public lands are located, to the head of the governing body of any political subdivision having zoning or other land use regulatory responsibility in the geographic area within which the public lands are located and to the head of any political subdivision having administrative or public services responsibility in the geographic area within which the lands are located. The notice shall be sent to other known interested parties of record including, but not limited to, adjoining landowners and current or past land users."; and

* * * * *

b. Renumbering paragraph (d) as paragraph (f) and inserting new paragraphs (d) and (e) to read:

* * * * *

(d) The publication of the notice of realty action in the **Federal Register** may segregate the public lands covered by the notice of realty action to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant, if the notice segregates the lands from the use applied for in the application. The segregative effect of the notice of realty action shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

(e) The notice published under § 1610.5 of this title may, if so designated in the notice and is the functional equivalent of a notice of realty action required by this section, serve as the notice of realty action required by paragraph (a) of this section and may segregate the public lands covered by the sale proposal to the same extent that they would have been segregated under a notice of realty action issued under paragraph (a) of this section.

5. Section 2711.1–3 is revised to read:

§ 2711.3 Sales requiring grazing permit or lease cancellations.

When lands are identified for disposal and such disposal will preclude livestock grazing, the sale shall not be made until the permittees and lessees are given 2 years prior notification, except in cases of emergency, that their grazing permit or grazing lease and grazing preference may be cancelled in part. A sale may be made of such identified lands without cancellation of the permit or lease in part if the sale is conditioned upon continuance of the permit or lease after the sale. A permittee or lessee may unconditionally waive the 2–year prior notification. Such a waiver shall not prejudice the permittee's or lessee's right to reasonable compensation for the fair market value of his/her interest in authorized permanent range improvements located on these public lands (See §4120.6–6). The publication of a notice of realty action as provided in §2711.1–2(c) of this title shall constitute notice to the grazing permittee or lessee if such notice has not been previously given.

§ 2711.2 [Amended]

6. Section 2711.2(b) is amended by removing the word "law" and replacing it with the word "laws".

§ 2711.3 [Amended]

7. Section 2711.3–1 is amended by:

a. Revising the title to read:

§ 2711.1 Competitive bidding.

* * * * *

b. Amending paragraph (c) by removing from the second sentence the phrase "not less than one-fifth" and replacing it with the phrase "the amount required in the notice of realty action which shall be not less than 10 percent or more than 30 percent"; and by removing from the beginning of the third sentence the word "of" and replacing it with the word "or"; also by removing from the third sentence the word "drawing" and replacing it with the words "supplemental biddings; and removing the last sentence and replacing it with a new sentence to read: "The designated high bidders shall be allowed an opportunity to submit a supplemental bid."

c. Amending paragraph (d) by removing the phrase "30 days" and replacing it with the phrase "180 days" and by removing the word "30th" and replacing it with the phrase "up to the 180th".

§ 2711.3–2 [Amended]

8. Section 2711.3–2 is amended by:

a. Revising the title to read:

§ 2711.3–2 Modified bidding.

* * * * *

b. Amending paragraph (a)(1) by removing the period at the end of paragraph (ii) and replacing it with a semicolon and the word "or" and by adding a new paragraph (iii) to read:

* * * * *

(iii) Offering to designated bidders of the first right of refusal to purchase the lands at fair market value. Failure to accept an offer to purchase the offered lands within the time specified by the authorized officer shall constitute a waiver of this preference consideration.;

* * * * *

c. Revising paragraph (b) to read:

* * * * *

(b) Where 2 or more designated bidders exercise preference consideration awarded by the authorized officer in accordance with paragraph (a)(1) of this section, such bidders shall be offered the opportunity to agree upon a division of the lands among themselves. In the absence of a written agreement, the preference right bidders shall be allowed to continue bidding to determine the high bidder.

* * * * *

d. Renumbering paragraphs (c) and (d) as paragraphs (d) and (e) and inserting a new paragraph (c) to read:

* * * * *

(c) Where designated bidders fail to exercise the preference consideration offered by the authorized officer in the allowed time, the sale shall proceed using the procedures specified in § 2711.3–1 of this title.; and

* * * * *

e. Adding a new paragraph (f) to read:

* * * * *

(f) Sales shall be made in a manner followed by all commercial transactions. The authorized officer shall publish a notice of realty action in accordance with the procedures in § 2711.1–2 of this title. If the sale is to be made through a real estate broker, the notice shall so state.

9. A new § 2711.3–3 is added to read:

§ 2711.3–3 Direct sales.

(a) Direct sales (without competition) may be utilized, when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale. Examples include, but are not limited to:

(1) A tract identified for transfer to State or local government or nonprofit organization; or

(2) A tract identified for sale that is an integral part of a project or public importance and speculative bidding would jeopardize a timely completion and economic viability of the project; or

(3) There is a need to recognize an authorized use such as an existing business which would be threatened if

the tract were purchased by other than the authorized user; or

(4) The adjoining ownership pattern and access indicate a direct sale is appropriate; or

(5) A need to resolve inadvertent unauthorized use or occupancy of the lands.

(b) Once the authorized officer has determined that the lands will be offered by direct sale and such determination has been issued, published and sent in accordance with procedures of this part, payment shall be made by the same instruments as authorized in § 2711.3–1(c) of this title.

(c) Failure to accept an offer to purchase the offered lands within the time specified by the authorized officer shall constitute a waiver of this preference consideration.

(d) Acceptance or rejection of an offer to purchase the offered lands shall be in accordance with the procedures set forth in §§ 2711.3–1 (f) and (g) of this title.

§ 2711.5–3 [Removed]

10. Section 2711.5–3 is removed in its entirety.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-32433 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6576]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Connecticut, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Connecticut	Weston, town, Fairfield County	Saugatuck River	Downstream of Davis Hill Road	*120	*118
			Approximately 300 feet upstream of Davis Hill Road	*121	*120
			Confluence with Jenning's Brook	*125	*124
			Downstream of footbridge located 700 feet upsteam of Cobble Dam.	*127	*126
		Jenning's Brook	Confluence with Saugatuck River	*125	*124
Maps available for inspection at the Town Hall, Weston, Connecticut.					
Send comments to Horlorable Susan Hutchinson, First Selectwoman of Weston, P.O. Box 1007, Weston, Connecticut 06883.					
Idaho	Kootenai County (unincorporated areas).	Nettleton Gulch	50 feet upstream from the centerline of 15th Street	(1)	*2,187
		French Gulch	40 feet upstream from the centerline of Galena Road	(1)	*2,184

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for reviewing at Engineering Services, 501 Government Way, Coeur d' Alene, Idaho. Send comments to Honorable Glenn R. Jackson, Chairman, Kootenai County Board of Commissioners, 501 Government Way, Coeur d' Alene, Idaho 83814.					
Missouri	(C) St. Joseph, Buchanan County	One Hundred and Two River	Just upstream of Cook Road	(2)	*859
			Just upstream of State Highway 6	(2)	*855
			Just upstream of Burlington Northern Railroad	(2)	*854
			About 0.35 mile downstream of Burlington Northern Railroad.	(2)	*852
		Missouri River	Northern corporate limits	*822	*821
			Western corporate limits	*815	*814
Maps available for inspection at the City Hall, Zoning and Planning Department, Room 201, Eleventh and Frederick Avenue, St. Joseph, Missouri. Send comments to Honorable David L. Polsky, Mayor, City of St. Joseph, City Hall, Eleventh and Frederick Avenue, St. Joseph, Missouri 64501.					
New York	Perinton, town, Monroe County	Thomas Creek	Approximately 90' downstream of Baird Road	*400	*397
			Upstream of Baird Road	*402	*400
			Downstream of O'Connor Road	*424	*422
			Upstream of Turk Hill Road culvert	*462	*461
			Approximately 3,700' upstream of Conrail	*464	*463
Maps available for inspection at the Perinton Town Hall, 1350 Turk Hill Road, Fairport, New York. Send comments to Honorable Lake V. Edwards, Town Supervisor of Perinton, 1350 Turk Hill Road, Fairport, New York 14450.					

[1] Not previously determined.
[2] None.

The proposed base flood elevations for selected locations are:

PROPOSED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated areas of Chilton County	Blacksnake Creek	Just upstream of Mitzou drive extended	*587
		Byrd Creek	Just upstream of the western corporate limits of Maplesville.	*361
		Chestnut Creek	Just downtream of county road crossing located southwest of intersection with U.S. Highway 31.	*459
		Coosa River	Just upstream of Ferry Road (County Highway 55)	*326
		Possum Creek	Just downstream of Old Thorsby Road	*587
		Cripple Coon Creek	Just downstream of Old Thorsby Road	*597
		Goose Pond Creek	Just upstream of Tom Littel John Road	*589
		Little Mulberry Creek	Just upstream of State Highway 22	*326
		Mulberry creek	Just upstream of State Highway 6 (U.S. Highway 82)	*293
			Just upstream of of Broadhead Road	*305
		Poley Bridge Creek	Just upstream of Lake Mitchell Road	*566
			Just downstream of Hinkle Road	*583
		Possum Creek	Just upstream of Boss Jones Road extended	*602
		South prong	Just downstream of gravel road crossing above Louisville and Nashville railroad.	*450
			Just downstream of Interstate Highway 65	*474
		Tributary to Blacksnake Creek	Just upstream of Mitzou Drive	*590
			Just upstream of Friendship Circle	*640
		Tributary to Poley Bridge Creek	Approximately 800 feet upstream of confluence with Poley Bridge Creek.	*580
		Walnut Creek	Just upstream of Interstate Highway 65	*562
		Yellow Leaf Creek	Just downstream of first county road crossing above mouth.	*602
			Just upstream of second county road crossing above mouth.	*622
Maps available for inspection at the Probate Office, Chilton County Courthouse, Clanton, Alabama 35045. Send comments to Mr. Mack Yeargan, Chilton County Chairman, County Commission, Chilton County Courthouse, P.O. Box 270 or Mr. Obie Littleton, Director, Housing Rehabilitation, City Hall, Clanton, Alabama 35045.					
Alabama	Unincorporated areas of Coosa County	Coosa River	Approximately 200 feet upstream of County Highway 55.	*326
			Approximately 100 feet downstream of Lay Dam	*328
		McSwain Branch	Just downstream of County Road 10	*384
		NoName Branch	Just upstream of County road 25	*323
		Shelton Creek	Approximately 200 feet upstream of U.S. Highway 231 and State Highway 21.	*673
			Approximately 300 feet upstream of U.S. Highway 20	*708
		Weogufka Creek (upper)	Approximately 100 feet upstream of County Road 29	*609
			Approximately 500 feet upstream of County Road 41	*634
			Approximately 250 feet downstream of U.S. Highway 231.	*678
			Approximately 200 feet downstream of U.S. Highway 280.	*711
		Weogufka Creek (lower)	Just downstream of County Road 65	*509

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Coosa County Courthouse, Rockford, Alabama 35135.				
Send comments to Judge Jasper Fielding, Coosa County Probate Judge, or Mr. Raymond Prater, Civil Defense Director, Coosa County Courthouse, P.O. Box 218, Rockford, Alabama 35135.				
Alabama	Unincorporated areas of Lowndes county	Alabama River	Just upstream of Jones Bluff lock and dam	*138
			Just upstream of the confluence of Spratt Branch	*147
		Pintlalla Creek	Just upstream of U.S. Highway 80	*163
			Just upstream of County Highway 26	*183
		Jack Creek	Approximately 100 feet upstream of County Road 26	*208
		Steep Creek	Just upstream of County Road 32	*168
			Just downstream of County Road 26	*213
		Big Swamp Creek	Just upstream of County Road 23	*146
			Just downstream of U.S. Highway 80	*154
			Approximately 200 feet upstream of U.S. Highway 80	*155
Maps available for inspection at County Commissioners Offices, Lowndes County Courthouse, Hayneville, Alabama 36040.				
Send comments to Mr. Charles Smith, Chairman, Lowndes County Commission, County Courthouse, P.O. Box 65, Hayneville, Alabama 36040.				
Alabama	City of Millbrook, Elmore county	Mill Creek	Just upstream of Grandview Road	*180
			Just upstream of Rose Hill Road	*208
			Just downstream of Brookside Drive	*219
		Tributary to Mill Creek	Just upstream of Martha Lane (extended)	*202
		Still Creek	Approximately 100 feet downstream of Edgewood Drive.	*179
Maps available for inspection at City Hall, 3841 Granview Drive, Millbrook, Alabama 36056.				
Send comments to Mayor L. Reginald Minter, Rebecca Lott, City Clerk-Treasurer, or Mr. Don Gober, Building Official, City Hall, P.O. Box C, Millbrook, Alabama 36056.				
Connecticut	Groton, town, New London County	Fishers Island Sound	Shoreline at Bluff Point	*15
			Shoreline at Mumford Point	*14
			Shoreline approximately 2,000 feet west of Neptune Road extended.	*13
			Shoreline of Mouse Island	*15
			Shoreline at Cedar Road extended	*14
			Shoreline approximately 2,500 feet southeast of Susan Lane extended east.	*15
			Shoreline of Little Gibraltar Road extended	*14
			Shoreline at Spence Point	*13
			Shoreline at eastern corporate limits	*13
		Thames River	Shoreline at Lestertown Road extended	*12
			Shoreline at Crystal Lake Road extended	*13
			Shoreline at northern corporate limits	*13
		Birch Plain Creek	At confluence with Baker Cove	*10
			Downstream of Trails Pond Dam	*16
			Upstream of Trails Pond Dam	*29
			Approximately 775 feet downstream of most upstream corporate limits.	*40
			Approximately 220 feet upstream of most upstream corporate limits.	*45
		Tributary A	At confluence with Birch Plain Creek	*10
			Approximately 900 feet downstream of Conrail	*12
		Fort Hill Brook	At confluence with Mumford Cove	*10
			Shoreline upstream of U.S. Route 1	*13
			Shoreline approximately 940 feet downstream of Corey Road extended.	*14
			Shoreline approximately 40 feet downstream of downstream side of breached dam.	*27
			Shoreline approximately 20 feet upstream of upstream side of breached dam.	*37
			Shoreline approximately 1,400 feet downstream of southbound lane of Interstate 95 extended.	*75
			Shoreline approximately 60 feet downstream of southbound lane of Interstate 95 extended.	*88
		Whitford Brook	Shoreline approximately 120 feet downstream of River Road extended.	*11
			Shoreline approximately 40 feet upstream of River Road extended.	*13
			Shoreline approximately 140 feet downstream of State Route 184 extended.	*15
			Shoreline approximately 80 feet upstream of State Route 184 extended.	*23
			Shoreline approximately 20 feet upstream of upstream side of Hyde Pond Dam.	*24
			Shoreline approximately 20 feet downstream of upstream corporate limits.	*25
		Eccleston Brook	Shoreline approximately 440 feet downstream of downstream corporate limits.	*30
			Shoreline approximately 40 feet upstream of downstream corporate limits.	*34
			Shoreline at U.S. Route 1	*37
		Fishtown Brook	Downstream corporate limits	*22
			Approximately 60 feet downstream of Farmstead Avenue.	*28
			At U.S. Route 1	*30

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Planning Office, Town Hall, Groton, Connecticut. Send comments to Honorable Richard Foote, Groton Town Manager, 45 Fort Hill Road, Groton, Connecticut 06340.				
Florida	Town of Astatula, Lake County	Lake Harris segment ponding area 1.	Approximately 1,000 feet southeast of Georgia Avenue and Washington Street intersection.	*70
		Ponding 2	Approximately 900 feet northeast of Jefferson Street and Delaware Avenue intersection.	*80
		Ponding area 3	Northwest corner of State Highway 561 (Monroe Street) and Delaware Avenue intersection.	*75
		Ponding area 4	Approximately 900 feet east of the intersection of State Highway 561 (Monroe Street) and Maryland Avenue and along the Seaboard Coast Line Railroad.	*75
Maps available for inspection at Town Hall, Monroe Street, Astatula, Florida 32705. Send comments to Mayor Douglas G. Harrison, or Olive Ingram, Town Clerk, Town Hall, P.O. Box 68, Astatula, Florida 32705.				
Florida	City of Clermont, Lake County	Lake Minnehaha	Along the shoreline	*100
		Lake Winona	Along the shoreline	*100
		Lake Minneola	Along the shoreline	*100
		Lake Charles	Along the shoreline	*90
		Wilma Lake	Along the shoreline	*90
		W Lake	Along the shoreline	*100
		Sunset Lake	Along the shoreline	*105
		Center Lake	Along the shoreline	*98
		Lake Dot	Along the shoreline	*99
		Crystal Lake	Along the shoreline	*100
		Lake Sparkling water	Along the shoreline	*100
		Lake Sunnyside	Along the shoreline	*100
		Unnamed pond north of Lake Sunnyside.	Along the shoreline	*125
		Shady Nook Lake	Along the shoreline	*100
		Spring Lake	Along the shoreline	*100
		East Lake	Along the shoreline	*100
		Unnamed pond east of East Lake	Along the shoreline	*100
		Edgewood Lake	Along the shoreline	*100
		Jacks Lake	Along the shoreline	*90
Maps available for inspection at City Hall, City Conference Room, 1 Westgate Plaza, Clermont, Florida 32711. Send comments to Mayor Charles Beals or Mr. George Forbes, City Manager, City Hall, P.O. Box 219, Clermont, Florida 32711.				
Florida	Town of Fanning Springs, Gilchrist County	Suwannee River	Just downstream of State Highway 55	*21
			Approximately 6,000 feet downstream of State Highway 55.	*20
Maps available for inspection at Town Hall, Fanning Springs, Florida 32693. Send comments to Mayor Ronnie McQueen, or Mr. C. K. Williams, Town Councilman, Town of Fanning Springs, Route 1, Box 161B, Trenton, Florida 32693.				
Florida	City of Fruitland Park, Lake County	Fountain Lake	Entire shoreline	*86
		Mirror Lake	Entire shoreline	*85
		Spring Lake	Entire shoreline	*75
		Crystal Lake	Entire shoreline	*80
		Zephyr Lake	Entire shoreline	*110
Maps available for inspection at City Manager's Office, City Hall, 506 West Burchman Street, Fruitland Park, Florida 32731. Send comments to Mayor Tom Shephard or Mr. Roman Yoder, Jr., City Manager, City Hall, P.O. Box 158, Fruitland Park, Florida 32731.				
Florida	City of Groveland, Lake County	Dukes Lake	Entire shoreline	*100
		Lake Catherine	Entire shoreline	*100
		Lake David	Entire shoreline	*100
		Lake Audrey	Entire shoreline	*108
Maps available for inspection at City Hall, 156 South Lake Avenue, Groveland, Florida 32736. Send comments to Mayor Dan R. Vaughn, Jr., or Gaye Sipe, City Clerk, City Hall, 156 South Lake Avenue, Groveland, Florida 32736.				
Florida	Town of Howey-in-the Hills, Lake County	Ponding area A	Entire shoreline	*75
		Ponding area E	Entire shoreline	*75
		Ponding area B	Entire shoreline	*80
		Ponding area (K-11-4)	Entire shoreline	*80
		Ponding area (K-11-6)	Entire shoreline	*80
		Ponding area (K-11-7)	Entire shoreline	*80
		Ponding area (K-11-8)	Entire shoreline	*80
		Ponding area C	Entire shoreline	*85
		Ponding area (K-11-3)	Entire shoreline	*85
Maps available for inspection at Town Hall, NOrth Polar Avenue, Howey-in-the-Hills, Florida 32737. Send comments to Mayor Thomas H. Poulos, Town Hall, P.O. Box 67, Howey-in-the-hills, Florida 32737.				
Florida	Town of Lady Lake, Lake County	Lake Ella	Entire shoreline	*80
		Lake Ivanhoe-Sylvia Lake	Entire shoreline	*70
		Park Lake	Entire shoreline	*75
		Lake Hermosa	Entire shoreline	*85
		Lake Sunshine	Entire shoreline	*70
		Ponding area G4B	Entire shoreline	*70
		Ponding area G4C	Entire shoreline	*80
		Ponding area E3B	Entire shoreline	*76
		Ponding area D2B	Entire shoreline	*70
		Ponding area D2C	Entire shoreline	*85
		Ponding area D2E1	Entire shoreline	*80

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ponding area D2E2	Entire shoreline	*85
		Ponding area D2G	Entire shoreline	*70
		ponding area D2H	Entire shoreline	*70
		Ponding area D2J	Entire shoreline	*72
		Ponding area D2K	Entire shoreline	*75
		Ponding area D2L	Entire shoreline	*75
		Ponding area D2M	Entire shoreline	*70
	Maps available for inspection at Town Clerk's Office, Town Hall, Guava Street, Lady Lake, Florida 32659.			
	Send comments to Mayor Robert Jones or Mr. Frank Loger, Mayor Pro-Tem, Town Hall, P.O. Box 2, Lady Lake, Florida 32659.			
Florida	City of Minneola, Lake County	Edgewood Lake	At the southern corporate limit, just south of Crescent Road.	*100
		Lake Minneola	Approximately 500 feet west of intersection of Fairview Street and Main Street along Fairview Street.	*99
		Ponding area west of Plum Lake	Just northeast of intersection of Washington Street and Oakland Avenue.	*91
		Ponding area southwest of Plum Lake.	Just northeast of intersection of Oakland Avenue and Center St.	*90
		Plum Lake	Entire shoreline	*85
	Maps available for inspection at City Hall, Pearl and Main Streets, Minneola, Florida 32755.			
	Send comments to Mayor Carl Aughe, City Hall, P.O. Box 678, Minneola, Florida 32755.			
Florida	Unincorporated areas of Nassau County	Atlantic Ocean	Just upstream of intersection of Seaboard Coast Line Railroad and Lofton Creek.	*11
			Just upstream of intersection of Interstate Highway 95 and St. Mary's River.	*12
			At the confluence of Amelia River and Lanceford Creek.	*14
			Just downstream of intersection of Interstate Highway 95 and St. Mary's River.	*15
	Maps available for inspection at Planning and Zoning Administrator's Office, Five Points County Building, State Roads AIA and 200, and at Nassau County Commissioner's Clerk's Office, County Courthouse, Center Street, Fernandina Beach, Florida 32034.			
	Send comments to Mr. Gene Blackwelder, Chairman of the County Commission, P.O. Box 1010, or Mr. Doug Jones, Director, Planning and Zoning Administration, Route 4, Box 176, Fernandina Beach, Florida 32034.			
Florida	City of Sopchoppy, Wakulla County	Sopchoppy River	Approximately 1,200 feet west of intersection of State Highway 375 and 6th Avenue, along State Highway 375.	*13
			Approximately 500 feet west of intersection of 2nd Avenue and Wakulla Street, along Wakulla Street.	*14
	Maps available for inspection at City Clerk's Office, City Hall, Corner of First and Byrd Streets, Sopchoppy, Florida 32358.			
	Send comments to Mayor Jerry Hodge or Ms. Jackie Lawhon, City Clerk, City Hall, P.O. Box 98, Sopchoppy, Florida 32358.			
Georgia	Unincorporated areas of Stephens County	Eastanollee Creek	Just upstream of Tower Road	*707
			Just upstream of Hayes Road	*752
			Just upstream of Old Mill Road	*832
			Approximately 200 feet upstream of Meadow Brook Drive.	*857
			Approximately 100 feet downstream of Rose Lane	*884
			Just downstream of Collier Road	*910
		Little Eastanollee Creek	Just downstream of Yow Mill Road	*718
			Just upstream of Hayes Road	*745
		Oggs Branch	Just downstream of State Highway 17	*840
			Approximately 100 feet downstream of North Avenue	*870
		Toccoa Creek	Approximately 100 feet upstream of State Highway 184.	*700
			Approximately 50 feet downstream of High View Road	*716
			Approximately 200 feet downstream of Scenic Drive	*781
			Just upstream of State Highway 17	*805
		Little Toccoa Creek	At Rothell Road	*703
			Just downstream of Camp Mikell Road	*731
		Cedar Creek	Just downstream of Lakeview Church Road	*1,214
	Maps available for inspection at Stephens County Annex Building, Toccoa, Alabama 30577.			
	Send comments to Mrs Jeanette Jameson, Chairman, Stephens County Commission, County Annex Building, P.O. Box 852, Toccoa, Georgia 30577.			
Illinois	(V) Lomax, Henderson County	Mississippi River	Within community	*530
	Maps available for inspection at the Lomax Post Office.			
	Send comments to the Honorable Kenneth Webster, Mayor, Village of Lomax, Village Hall, Lomax, Illinois 61454.			
Illinois	(C) Markham, Cook County	Cal-Union drainage ditch	About 3,100 feet downstream of Wood Street	*608
			About 900 feet upstream of southbound ramp of Interstate 294.	*610
		Southwest Branch Cal-Union drainage ditch.	Mouth at Cal-Union drainage ditch	*609
			Just upstream of Interstate 294	*624
		Dixie Creek	Within corporate limits	*607
		Belaire Creek	Mouth at Dixie Creek	*607
			About 3,000 feet upstream of Interstate 294	*608
		I-57 drainage ditch	About 2,150 feet downstream of Kedzie Avenue	*606
			About 3,350 feet upstream of Kedzie Avenue	*612
		Park Creek	Mouth at I-57 drainage ditch	*608
			About 2,700 feet upstream of Kedzie Avenue	*611

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Building Inspector's Office, City Hall, 16313 Kedzie Parkway, Markham, Illinois. Send comments to the Honorable William Sparger, Mayor, City of Markham, City Hall, 16313 Kedzie Parkway, Markham, Illinois 60426.				
Kentucky	(V) Coal Run, Pike County	Levisa Fork	About 0.5 mile downstream of Ratcliff Branch	*667
			At confluence of Stonecoal Creek	*669
Maps available for inspection at the Coal Run Fire Station, Coal Run, Kentucky. Send comments to the Honorable E. W. Damron, Mayor, Village of Coal Run, Coal Run Fire Station, Coal Run, Kentucky 41501.				
Kentucky	Unincorporated areas of Floyd County	Levisa fork	Approximately 1,000 feet upstream of State Highway 114.	*636
			Just downstream of State Highway 304	*639
			Just downstream of State Highway 979	*660
		Beaver Creek	Just upstream State Highway 80	*661
		Left fork Beaver Creek	Approximately 270 feet downstream of Spewing Camp Branch Road.	*725
			Approximately 200 feet downstream of State Highway 122.	*756
		Right fork Beaver Creek	Approximately 300 feet downstream of State Highway 7.	*696
		Abbott Creek	Just upstream of Little Abbott Creek Road	*636
			Just upstream of County Highway 1427	*683
		Mud Creek	Just upstream of Parson Branch Road	*671
		Jacks Creek	Approximately 140 feet upstream of Orchard Fork Road.	*940
			Just downstream of Honeycamp Branch Road	*940
		Steele Creek	Just downstream of Secondary highway 1086	*778
Maps available for inspection at the Floyd County Flood Plain Administrator's Office, Floyd County Courthouse Annex, Prestonsburg, Kentucky 41653. Send comments to Judge John Stumbo, Floyd County Judge or Mr. Morris Isaac, Flood Plain Administrator, Floyd County Courthouse Annex, Prestonsburg, Kentucky 41653.				
Kentucky	(C) Pikeville, Pike County	Levisa fork	About 0.17 mile downstream of Chessie System	*668
			About 1.45 miles upstream of County Route 1426	*678
		Pikeville Road	Shoreline	*671
		Harolds Branch	At mouth	*671
			About 0.11 mile upstream of U.S. Route 119	*672
			About 0.2 mile upstream of U.S. Route 119	*681
			About 0.54 mile upstream of U.S. Route 119	*704
		Lower Chloe Creek	At mouth	*671
			Just downstream of State Route 1460	*682
			Just upstream of State Route 1460	*685
			About 0.9 mile upstream of State Route 1460	*750
		Ferguson Creek	At mouth	*671
			Just downstream of U.S. Route 119 (about 0.3 mile upstream of State Route 80).	*681
			Just upstream of U.S. Route 119 (about 0.3 mile upstream of State Route 80).	*687
			Just downstream of unnamed road (about 0.1 mile downstream of Beaver Hollow Road).	*731
			Just upstream of unnamed road (about 0.1 mile downstream of Beaver Hollow Road).	*735
			Just downstream of private drive (about 0.27 mile upstream of Beaver Hollow Road).	*784
			Just upstream of private drive (about 0.27 mile upstream of Beaver Hollow Road).	*789
			Just downstream of private drive (about 0.41 mile upstream of Beaver Hollow Road).	*805
			Just upstream of private drive (about 0.41 mile upstream of Beaver Hollow Road).	*812
			Just upstream of unnamed road (about 0.65 mile upstream of Beaver Hollow Road).	*852
Maps available for inspection at City Hall, Pikeville, Kentucky. Send comments to Honorable W. C. Hambley, Mayor, City of Pikeville, City Hall, Pikeville, Kentucky 41501.				
Maryland	Queen Annes County	Chester River	Shoreline from Love Point to Long Point	*11
			Shoreline from Long Point to Spaniard Neck Road (extended).	*10
			Shoreline from Spaniard Neck Road (extended) to approximately 1,500 feet upstream of confluence of Rosin Creek.	*7
			Shoreline from approximately 1,500 feet upstream of confluence of Rosin Creek to approximately 3,700 feet downstream of confluence with Unicorn Branch.	*8
			Approximately 5,460 feet downstream of confluence with Mills Branch.	*8
			Confluence with Unicorn Branch	*9
			U.S. Highway 301 (upstream side)	*10
			Approximately 2,800 feet downstream of State Highway 313.	*13
			Conrail bridge upstream of town of Millington (upstream side).	*16
		Chesapeake Bay	Shoreline from Kent Point to Craney Creek	*10
			Shoreline from Craney Creek to Love Point	*11
		Eastern Bay	Entire shoreline within community	*10

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
	Maps available for inspection at the Department of Planning and Zoning, County Annex Building, Centreville, Maryland.			
	Send comments to Honorable Robert Sallitt, Queen Annes County Administrator, County Annex Building, Centreville, Maryland 21617.			
Massachusetts	Winthrop, town, Suffolk County	Boston Harbor	Shoreline at Main Street bridge	*10
			At Cottage Park Road (extended)	*11
		Atlantic Ocean	Shoreline at Highland Avenue (extended)	*28
			Shoreline at Coral Avenue (extended)	*22
			Shoreline at Tewksbury Street (extended)	*19
			Shoreline at Bayview Avenue (extended east)	*15
	Maps available for inspection at the Planning Board, Town Hall, Winthrop, Massachusetts.			
	Send comments to Honorable Robert Noonan, Chairman of the Board of Selectmen for the Town of Winthrop, Town Hall, Winthrop, Masssachusetts 02512.			
New York	Castleton-on-Hudson, village, Rensselaer County	Hudson River	Downstream corporate limits	*18
			Upstream corporate limits	*19
		Moordener Kill	Downstream corporate limits	*19
			Downstream dam (upstream side)	*89
			Upstream dam (upstream side) located upstream of State Route 150.	*143
			Upstream corporate limits	*149
		Vlockie Kill	Entire length within corporate limits	*18
	Maps available for inspection at the Village Hall, Castleton, New York.			
	Send comments to Honorable Donald C. Justus, Mayor of the Village of Castleton-on-Hudson, Village Hall, Box 126, Castleton, New York 12033.			
New York	Dover, town, Dutchess County	Tenmile River	Downstream corporate limits	*289
			Approximately 1 mile downstream of Lake Ellis Road	*311
			Lake Ellis Road (upstream side)	*325
			Reagans Mill Road (upstream side)	*346
			Approximately 1 mile upstream of access road	*355
			Lime Kiln Road (upstream side)	*364
			Confluence of Wells Brook	*376
			Maple Lane (upstream side)	*382
			Upstream corporate limits	*390
		Wells Brook	Confluence with Tenmile River	*376
			State Route 22 (downstream side)	*385
			Approximately .22 mile upstream of State Route 22	*391
	Maps available for inspection at the Town Clerk's Residence, Mayflower Avenue, Dover, New York.			
	Send comments to Honorable Otto Sprorsel, Town Supervisor of Dover, Route 1, Box 212, Wingdale, New York 12594.			
New York	Millerton, village, Dutchess County	Webatuck Creek	At Downstream corporate limits	*671
			Upstream of Mill Street	*679
			Upstream of U.S. Route 44 (Main Street)	*687
			Upstream of dam	*700
			Upstream of abandoned railroad bridge at upstream corporate limits.	*712
		Kelsey Brook	Confluence with Webatuck Creek	*679
			Upstream corporate limits	*706
	Maps available for inspection at the Village Hall, Millerton, New York.			
	Send comments to Honorable Daniel Cuddeback, Mayor of the Village of Millerton, Village Hall, Millerton, New York 12546.			
New York	Nassau, town, Rensselaer County	Kinderhook Creek	Downstream corporate limits	*414
			U.S. Route 20 (upstream side)	*449
			Downstream crossing of U.S. Route 2/State Route 66 (upstream side).	*462
			Upstream crossing of U.S. Route 20/State Route 66 (upstream side).	*496
			Approximately 0.59 mile downstream of confluence of Black Brook.	*550
			Approximately 0.7 mile upstream of confluence of Black Brook.	*578
		Black Brook	Confluence with Kinderhook Creek	*557
			Upstream corporate limits	*582
		Tsatsawassa Creek	Approximately 640 feet downstream of downstream crossing of Central Nassau Road.	*667
			Murdock Road (upstream side)	*720
			Falls (upstream side)	*796
			Upstream crossing of Central Nassau Road	*804
		Valatie Kill	Confluence with Nassau Lake	*414
			Central Nassau Road (upstream side)	*440
			Mead Road (upstream side)	*490
	Maps available for inspection at the Town Hall, Nassau, New York.			
	Send comments to Honorable Floyd J. Hitchcock, Nassau Town Manager, Town Hall, Route 20, Nassau, New York 12123.			
New York	Northeast, town, Dutchess County	Webatuck Creek	Downstream corporate limits	*545
			Indian Lake Road (upstream side)	*579
			Southern corporate limits with the village of Millerton	*671
			Approximately 4,000 feet upstream of Irondale Road	*755
		Kelsey Brook	Downstream corporate limits	*706
			Upstream of U.S. Route 44	*719
			Upstream corporate limits	*729

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Clerk's Office, Town Hall, Millerton, New York. Send comments to Honorable Franck Perotti, Town Supervisor of Northeast, Town Hall, Maple Avenue, Box 516, Millerton, New York 12546.				
New York	Pawling, village, Dutchess County	Swamp River	Upstream corporate limits	*477
			Upstream of Access Road approximately 960 feet downstream from Allison Drive.	*451
			Upstream of Main Street	*443
			Downstream corporate limits	*434
		East branch Croton River	Approximately 100 feet upstream State Route 22	*493
			Upstream of Spring Street	*474
			Upstream of East Main Street	*467
			Approximately 160 feet upstream of Conrail	*450
			Downstream corporate limits	*444
Maps available for inspection at the Village Hall, Pawling, New York. Send comments to Honorable Adrian Anderson, Mayor of the Village of Pawling, Village Hall, 9 Memorial Avenue, Pawling, New York 12564.				
New York	Peekskill, city, Westchester County	Hudson River	Entire shoreline within community	*9
		Annsville Creek	Confluence with Hudson River	*8
			Confluence of Peekskill Hollow Brook and Sprout Brook.	*9
		Peekskill Hollow Brook	Confluence with Annsville Creek and Sprout Brook	*8
			Upstream corporate limits	*8
Maps available for inspection at the Office of the Town Engineer and Planning Department, City Hall, Peekskill, New York. Send comments to Honorable William Williams, Peekskill City Manager, City Hall, 840 Main Street, Peekskill, New York 10566.				
New York	Rhinebeck, town, Dutchess County	Crum Elbow Creek	Downstream corporate limits	*290
			Upstream of Valley Stream Road	*319
			Sipe Barracks Road (downstream crossing)	*370
			Approximately 150 feet upstream of State Quarry Road.	*417
		Landsman Kill	Confluence of Rhinebeck Kill	*127
			Upstream of Violet Hill Road	*208
			Upstream of Miller Road	*258
			Approximately 50 feet upstream of White School House Road.	*306
		Rhinbeck Kill	Confluence with Landsman Kill	*127
			Upstream of Montgomery Street	*146
			At corporate limits	*166
		Hudson River	Entire shoreline within community	*9
Maps available for inspection at the Office of the Town Clerk, Town Hall, Rhinebeck, New York. Send comments to Honorable David Traver, Rhinebeck Town Supervisor, Town Hall, 80 East Market Street, Rhinebeck, New York 12572.				
New York	Schodack, town, Rensselaer County	Hudson River	Downstream corporate limits	*16
			New York State Thruway (upstream side)	*18
			Upstream corporate limits	*19
		Moordener Kill	Confluence with Hudson River	*19
			Approximately 120 feet downstream of State Route 150.	*106
			Brookview Station Road (upstream side)	*170
			Approximately 6,000 feet upstream of Brookview Station Road.	*210
			Old Post Road (upstream side)	*258
			U.S. Routes 9/20 (upstream side)	*289
			State Route 150 (upstream side)	*352
			Bridge remnant (upstream side)	*401
			Burden Lake Road (upstream side)	*426
			Upstream corporate limits	*507
		North branch Moordener Kill	Confluence with Moordener Kill	*265
			Kraft Road (upstream side)	*336
			Approximately 1,900 feet upstream of Miller Road	*354
		Vlockie Kill	Downstream corporate limits	*18
			Approximately 8,000 feet upstream of access road	*70
			First Falls (upstream side)	*171
			Clove Road (upstream side)	*210
			Interstate Route 90 (upstream side)	*261
			U.S. Route 9 (upstream side)	*290
		Multzes Kill	State Route 9J (upstream side)	*18
			First dam (upstream side)	*80
			Second dam (upstream side)	*99
			Clove Road (upstream side)	*108
			Conrail (upstream side)	*122
		Valatie Kill	Confluence with Nassau Lake	*414
			Upstream corporate limits	*432
Maps available for inspection at the Town Hall, Castleton, New York. Send comments to Honorable G. Jeffrey Huber, Town Supervisor of Schodack, 1777 Columbia Turnpike, Town Hall, Castleton, New York 12203.				
Ohio	(V) Buckeye Lake, Licking County	South fork Licking River	Just upstream of State Route 79	*883
			About 7,750 feet upstream of Interstate 70	*885
Maps available for inspection at Village Hall, P.O. Box 27, 19 Third Street, Buckeye Lake, Ohio. Send comments to Honorable Charles E. Slater, Mayor, Village of Buckeye Lake, Village Hall, P.O. Box 27, 19 Third Street, Buckeye Lake, Ohio 43008.				
Ohio	(V) Ft. Shawnee, Allen County	Little Ottawa River	About 700 feet downstream of Zurmehly Road	*833
			Just downstream of Beeler Road	*838
			Just upstream of Shawnee Road	*860

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Unnamed tributary No.1	About 1,700 feet upstream of Hume Road	*880
			At confluence with Ottawa River	*862
		Freed ditch	About 2,900 feet upstream of Hume Road	*876
			At confluence with Little Ottawa River	*871
			Just downstream of McClain Road	*881

Maps available for inspection at the Clerk's Office, Municipal Building, 2050 W. Breese Road, Lima, Ohio.
Send comments to Honorable Kenneth Winds, Mayor, Village of Fort Shawnee, Municipal Building, 2050 W. Breese Road, Lima, Ohio 45806.

Texas	City of Woodbranch Village, Montgomery County	Peach Creek	Approximately 300 feet upstream of Roman Forest Boulevard.	*86
		Peach Creek tributary No. 1	Approximately 300 feet upstream of Appian Way	*90
			Approximately 300 feet upstream of the confluence with Peach Creek.	*93

Maps available for inpection at Civic Center Building, Woodbranch Village, Texas.
Send comments to Mayor Troyis D. Wilson, P.O. Box 804, New Caney, Texas 77357.

Wisconsin	(C) Thorps, Clark County	McGrogan Creek	About 1,350 feet downstream of S. Adams Street	*1,174
			Just downstream of Rusch Street	*1,200
			Just upstream of Rusch Street	*1,206
			About 900 feet upstream of Rusch Street	*1,207

Maps available for inspection at the City Clerk's Office, City Hall, P.O. Box 334, Thorp, Wisconsin.
Send comments to Honorable David Kesting, Mayor, City of Thorp, City Hall, P.O. Box 334, Thorp, Wisconsin 54771.

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

Issued: November 17, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-32309 Filed 12-5-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 83-841]

Integrated Services Digital Networks (ISDN); Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; further extension of reply comment period.

SUMMARY: This order extends the period for filing reply comments in the Federal Communications Commission's Notice of Inquiry into Integrated Services Digital Networks (ISDN) (48 FR 37 464 (1983)). The period for filing comments and reply comments had previously been extended. This extension is granted in response to the motion for extension of time filed by GTE Service Corporation.

DATES: Reply comments must be filed on or before December 5, 1983.

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

FOR FURTHER INFORMATION CONTACT: William J. Sill, International Conference Staff, Common Carrier Bureau, (202) 632-3214.

In the matter of Integrated Services Digital Networks (ISDN) (GEN Docket No. 83-841).

Adopted: November 25, 1983.
Released: November 28, 1983.
By the Chief, Common Carrier Bureau.

1. On November 21, 1983, GTE Service Corporation (GTE) filed a motion for extension of time for filing reply comments in the above captioned proceeding. The current date for filing reply comments is November 28, 1983.

2. GTE cites as the reason for extending the reply date the recent release of an order in a related proceeding. GTE expects the *Memorandum Opinion, Order, and Statement of Principles*, GEN. Docket No. 80-756, FCC 83-510, Transmittal No. 33931 (released November 21, 1983) [hereinafter referred to as the *Digital Protocols Order*] to clarify the basic/enhanced services dichotomy and delineate the circumstances under which requests for waiver of rules regarding protocol conversion will be acted upon favorably. It maintains that this order will have an important bearing upon the protocol conversion issues raised in the ISDN Notice of Inquiry. GTE notes that several commenters raise issues regarding the basic/enhanced dichotomy, and specifically refer to the appropriate regulatory treatment of protocol conversion in an ISDN environment. GTE requests that the period for reply be extended until fourteen days after the *Digital Protocols Order* is released. The order was released on November 21, 1983.

3. We believe that an extension of the period for filing reply comments is in order. The determination of what period is appropriate involves balancing the goal of developing a full record against the need to proceed expeditiously. Both the Notice of Inquiry and the commenters telecommunications policies, including *Computer II*. The *Digital Protocols Order* may be relevant to the ISDN proceeding because issues raised by protocol conversions necessary for internetworking in an ISDN environment may be answered in accordance with the criteria outlined in the *Digital Protocols Order*. We note that the November 21, 1983 release date of the *Digital Protocols Order* leaves commenters in this proceeding with only three working days to review the order before submitting their reply comments. We believe that this is inadequate. Accordingly, we believe that extending

the reply comment date to December 5, 1983 is reasonable.

4. Accordingly, it is ordered, that the motion for extension of time filed by GTE Service Corporation is granted.

5. It is further ordered that the time for filing reply comments is extended to December 5, 1983.

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 83-32370 Filed 12-5-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 22

[CC Docket No. 81-893; FCC 83-506]

Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: A plan to remove embedded mobile telephone customer premises equipment (CPE) from tariff service is being proposed. Comments are requested from the public concerning the mechanics of how we should deregulate embedded mobile CPE. This is a proposal to conform the deregulation of embedded mobile customer premises equipment with the deregulation of other embedded telephone customer premise equipment. This action encourages the competitive provision of mobile CPE and fosters an environment in which consumers will have the maximum array of choices. In a Report and Order adopted concurrently with this Further Notice of Proposed Rulemaking mobile telephone customer premises equipment was deregulated effective January 1, 1984.

DATES: Comments must be received on December 29, 1983. Reply comments must be received on January 23, 1984.

ADDRESSES: Secretary's Office, Room 222, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gerald M. Goldstein, Esquire, (202) 632-6444.

List of Subjects in 47 CFR Part 22

Mobile radio service.

Further Notice of Proposed Rulemaking

In the Matter of Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry); CC Docket No. 81-893.

Adopted: November 1, 1983.

Released: November 7, 1983.

By the Commission.

1. In this Notice we propose to adopt a plan to remove embedded mobile telephone customer premises equipment (CPE) from tariff service. In the *Deregulation of Mobile Customer Premises Equipment Report and Order*, Docket No. 83-372, adopted concurrently today, we decided to follow the deregulatory scheme established in the *Second Computer Inquiry*,[1] and to deregulate mobile telephone CPE on a bifurcated basis. New CPE, which includes all new mobile CPE acquired by a carrier or manufactured by an affiliated entity after January 1, 1984, will no longer be tariffed. All other in-place or existing mobile telephone equipment was classified as embedded CPE. Carriers will provide embedded CPE under tariff during a transition period until the manner of detariffing the embedded equipment is determined in this proceeding. Because of the complexities of deregulating embedded CPE, we decided to afford the public a further opportunity to comment on the mechanics of how we should deregulate embedded mobile CPE.

In our *Notice of Proposed Rulemaking*, in this proceeding, 48 FR 29891 released June 21, 1983, we discussed in detail the various options for detariffing other embedded CPE, which was deregulated pursuant to the *Second Computer Inquiry*, in part addressing issues of capital recovery, asset valuation, and accounting mechanisms.

2. Since mobile telephone CPE was not encompassed within the *Notice of Proposed Rulemaking*, we are requesting public comment on the issues raised there as they relate to mobile telephone CPE. We will not again repeat all the issues raised in that poceeding. Instead we direct those interested in filing comments to address those issues that they believe are pertinent to mobile CPE. Some of the issues that may prove to be dispositive to this proceeding are:

1. What accounting mechanisms should be adopted to remove embedded mobile CPE investment from regulated books of account? Specifically, parties are requested to comment regarding whether carriers providing embedded mobile CPE on a deregulated basis should be subject to the accounting requirements we have proposed for independent telephone companies which provide embedded CPE on a deregulated basis. *See Notice of Proposed Rulemaking, Supra*, at paras. 65-68.

2. How should we proceed in setting the asset value of embedded mobile CPE?

3. Should the states be given flexibility to establish procedures for detariffing embedded mobile CPE, as we have suggested with regard to independent telephone companies? *Id.* at para. 72.

4. How long should we permit a transition period to continue in order to detariff this equipment without creating substantial public inconvenience? We tentatively conclude that all embedded mobile CPE should be removed from regulated service not later than December 31, 1987, as we have proposed for independent telephone companies. *Id.* at para. 71.

Regulatory Flexibility Act—Initial Analysis

3. *Reasons for action and objective.* This is a policy of general applicability being proposed to conform the deregulation of embedded mobile customer premises equipment with the deregulation of other embedded telephone customer premise equipment. The objectives are to encourage the competitive provision of mobile CPE, to remove advantages accruing to carriers over other vendors of mobile CPE, and to foster an environment in which consumers will have the maximum array of choices.

4. *Legal basis.* The authority for this proposed rulemaking is contained in Section 4, 303 and 403 of the Communications Act of 1934, as amended.

5. *Small entities affected and potential impact.* The proposed policy is expected to affect (a) most telephone companies and radio common carriers providing mobile telephone service (b) manufacturers of mobile CPE, and (c) retail and wholesale vendors of mobile CPE. The potential impact would be measured only in terms of revenues from the provision, manufacture or sale of equipment. It is anticipated that, overall, the impact will be favorable.

6. *Relevant federal rules which overlap, duplicate or conflict with this action.* None.

7. *Reporting, record-keeping and compliance requirements.* None.

8. *Alternatives that would lessen impact.* It is our view that there are no alternatives that would lessen impact.

9. *Interested persons are invitied to participate in this proceeding by submitting comments in accordance*

[1] Amendment of Section 64.702 of the Commission's rules and regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), reconsideration 88 FCC 2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied sub nom.* Louisiana Public Service Commission v. FCC, 103 S. Ct. 2109 (1983).

with § 1.419 of the Commission's rules, 47 CFR 1.419. Comments must be filed by December 29, 1983, and reply comments by January 23, 1984.

10. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who make an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. The Secretary of the Commission shall serve a copy of this Further Notice of Proposed Rulemaking upon each state public utilities regulatory commission.

12. Authority for this action is contained in Sections 4(i), 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 403, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-32372 Filed 12-5-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-479; RM-4390]

TV Broadcast Stations in Paintsville and West Liberty, Kentucky, and Andrews, North Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 59 to West Liberty, Kentucky, as its first television channel instead of a previous proposal to reassign Channel 69 from Paintsville, Kentucky, to West Liberty, in response to a petition filed by Morgan Supply Company.

DATES: Comments must be filed on or before January 23, 1984, and reply comments must be filed on or before February 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Further Notice of Proposed Rule Making

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Paintsville and West Liberty, Kentucky, and Andrews, North Carolina),[1] MM Docket No. 83-479, RM-4390.

Adopted: November 14, 1983.

Released: November 30, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 27571, published June 16, 1983, proposing to amend the Television Table of Assignments § 73.606(b) of the Commission's Rules, by deleting UHF Channel 69 from Paintsville, Kentucky, and reassigning that channel to West Liberty, Kentucky, as its first television assignment in response to a petition for rule making filed by Morgan Supply Company ("Morgan"). Morgan and Hometown Television, Inc. ("Hometown") filed comments in response to the *Notice*, and both filed reply comments.

2. Morgan reiterates its intention to promptly apply for a construction permit and construct and operate a station at West Liberty. Morgan contends that, in assigning Channel 69 to Paintsville, effective June 20, 1981, the Commission relied on Hometown's representations that it would promptly apply for and construct a station. Morgan notes that Hometown only applied for a construction permit on July 21, 1983, two years after Channel 69 was assigned to Paintsville and subsequent to and as a result of Morgan's petition for rule making. According to Morgan, Hometown's application was filed solely to block the proposed reassignment. Morgan states that the public interest requires an equal comparison of the needs of both communities where, as here, a channel is unused and unapplied for for a prolonged period, and where, as here, that channel is needed elswhere. According to Morgan, other than population, there are no significant differences between Paintsville and West Liberty, and, therefore, no reason to favor Paintsville solely on the basis of population. To do otherwise would foster a policy of "delays and stalling tactics" which, in this case could tie up the only available television channel in Eastern Kentucky.

3. Hometown opposed the reassignment, arguing that § 307(b) of the Communications Act of 1934, as amended, requires that Morgan demonstrate a compelling reason to reassign Channel 69. According to Hometown, the Commission has "repeatedly" held that existing channel assignments for which there are interests are to be retained absent showings of clear preference for proposed new communities. Hometown asserts that a petitioner seeking reassignment has the burden of demonstrating such a clear preference. Hometown claims that Paintsville has a clear population advantage over West Liberty. Hometown calls our attention to the fact that it has filed an application for a construction permit and that, if granted, it intends to construct and operate a station as soon as possible. Hometown attributes its delay in seeking authorization to the facts that, during the past two years, it has twice had to change its transmitter site and that it has been hampered by the serious health problems of its engineer.

4. Initially, we note that, in addition to the Hometown application, an application for channel 69 at Paintsville was filed by John H. Leland (File No. 831014KG). Commission policy is to not reassign a channel in which an interest has been shown absent a compelling reason to do so. See *Martin and Salyersville, Kentucky*, BC Docket No.

[1] This community has been added to the caption.

81–411, 46 FR 53725 (1981). However, our staff has undertaken a channel search to resolve the conflict. That search reveals that channel 59 is available for assignment to West Liberty instead. Such an assignment would require a site restriction of 0.7 miles northeast in order to avoid short spacing to proposed Channel 44 at Harlan, Kentucky. In addition, a change in the offset for unused noncommercial Channel *59 at Andrews, North Carolina, is required. Therefore, we see no reason to further delay the processing of the pending applications at Paintsville. Accordingly, we shall proceed with a substitute proposal in this proceeding as set forth below.

5. In view of the foregoing, the Commission seeks comment on the following proposed amendments to the TV Table of Assignments, § 73.606(b) of the Commission's Rules, with regard to the communities listed below, as follows:

City	Channel No.	
	Present	Proposed
West Liberty, Kentucky		59
Andrews, North Carolina	*59	*59-

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before January 23, 1984, and reply comments on or before February 7, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner: Morgan Supply Company, c/o Edward B. Reddy, Reddy, Begley and Martin, 2033 M Street N.W., Washington, D.C. 20036.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), and 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoke or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes and *ex parte* presentation ans shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83–32373 Filed 12–5–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 97

[PR Docket No. 83–485; FCC 83–502]

Amendment of the Commission's Rules To Make Additional Frequencies Available for Repeater Operation

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws an earlier proposal which sought to make additional frequencies in the 10 meter band available for repeater operation. Making such frequencies available to

users would have an adverse impact on amateur satellite communcations in that band. Further, it was determined that there is no compelling need for repeater subband expansion in the 10 meter band at this time.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

Order; Proceeding Terminated

In the Matter of Amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available for repeater operation, PR Docket No. 83-485; RM-4231.

Adopted: October 31, 1983.
Released: November 2, 1983.

By the Commission.

1. On May 12, 1983, the Commission adopted a Notice of Proposed Rule Making (48 FR 24954; June 3, 1983) proposing to amend the Amateur Radio Service Rules to authorize the frequencies between 29.0 and 29.5 MHz for repeater operation. Current frequencies available for repeater operation in the 10 meter band are between 29.5 and 29.7 MHz. Comments in the proceeding were due July 25, 1983, and reply comments were due August 24, 1983.

2. The Commission's proposal stemmed from a petition for rule making (RM-4231), filed October 13, 1982, by Beryl Gosney of Oak Harbor, Washington. Mr. Gosney requested that frequencies in the 10 meter band now available for repeater operation be expanded to include frequencies between 29.0 and 29.5 MHz. In his petition, Mr. Gosney said that the present number of 10 meter band frequencies was inadequate and that severe frequency congestion was taking place. He attributed the congestion to the recent increase in FM communications that has taken place on 10 meters, but offered no data to support his claim. In our proposal, we noted that there might be merit in the petitioner's request and invited comments on the need for additional repeater frequencies. We also asked for comments on the impact that additional 10 meter frequencies would have on present and future repeater and non-repeater operations.

3. Commentors in favor of the proposal said there was a great need for the additional repeater frequencies. For example, the Southern California Repeater and Remote Base Association (SCRRBA) said that it was unable to coordinate additional repeaters, even though there are operators in that area who want to construct and operate new stations. SCRRBA acknowledged that there are satellite operations in the 29.3-29.5 MHz portion of the 10 meter band, but anticipated that sharing arrangements with Amateur-Satellite Service users could be worked out within the amateur community. Carl E. Bollinger stated that there is a great need for these additional frequency allocations on FM. According to Mr. Bollinger, under favorable propagation conditions, there is extreme crowding and interference on both the repeater and simplex frequencies.

4. Commentors opposed to the proposal mentioned the disruption that would occur to amateur satellite communications if repeaters were permitted between 29.3 MHz and 29.5 MHz. The Radio Amateur Satellite Corporation (AMSAT) said that FM repeater operation in that frequency segment would worsen an already difficult situation. The American Radio Relay League, Inc. (ARRL) concurred. In addition, the ARRL said it had no evidence of overcrowding in the existing 10-meter repeater subband. The ARRL noted that its latest Repeater Directory listed only 43 repeaters in the 10 meter band for the entire United States, and only one repeater in the State of Washington, where the petitioner resides.

5. After considering the comments on both sides of the issue of additional 10 meter repeater frequencies, we are persuaded, for two reasons, that we should terminate this proceeding without adopting the proposed rules. First, providing additional repeater frequencies in the 10 meter band would have an adverse effect on amateur satellite communications, including beacon transmissions, robot operations, telemetry signals and transponder downlinks. Second, we conclude that there is no compelling need for repeater subband expansion in the 10 meter band at this time. Comments referring to congestion on repeater frequencies appear to represent local conditions. Amateur satellite communications, on the other hand, transcend local areas. Hence, the adverse impact on amateur satellite communications that would occur if the subband were expanded, outweighs any frequency congestion that local repeaters may be experiencing.

6. In view of the foregoing, it is ordered, That the petition of Beryl Gosney, RM-4231, is denied.

7. It is further ordered, That this proceeding IS TERMINATED.

8. Information in this matter may be obtained by contacting Maurice J. DePont (202) 632-4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-32371 Filed 12-5-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 31130-228]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of preliminary fishery specifications and request for comment.

SUMMARY: This notice announces and requests comments on the preliminary 1984 specifications of Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish in the fishery conservation zone and territorial waters off the coasts of Washington, Oregon, and California. This notice contains preliminary specifications of the acceptable level of biological catch as well as the optimum yield and its distribution among domestic and foreign fishing operations for groundfish species or species groups, as required by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan.

DATE: Comments on the preliminary specifications for the 1984 must be received by December 21, 1983.

ADDRESSES: Send comments to T. E. (Gene) Kruse, Deputy Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115 or Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island California 90731.

FOR FURTHER INFORMATION CONTACT: T. E. (Gene) Kruse at 206-527-6150 or Floyd Anders, Jr., at 213-548-2575.

SUPPLEMENTARY INFORMATION: OMB Control Number 0648-0114. The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982. The FMP and its implementing regulations at 50 CFR Part 663 (47 FR 43974, published on

October 5, 1982) state that management specifications for certain species (Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish) will be evaluated each calendar year, that preliminary specifications will be published in the **Federal Register**, public comment will be requested, and final specifications for the succeeding calendar year will be published. The management specifications are made for the acceptable biological catch (ABC), an estimate of the annual catch that could be taken without jeopardizing a resource's productivity, and the optimum yield (OY), which is based on socio-economic as well as biological factors and thus is not necessarily equal to the ABC. The OYs for these five species set the maximum amounts of fish (in round weight) that may be taken and retained or landed each year from the fishery conservation zone (3–200 nautical miles) and the territorial sea (0–3 nautical miles) off Washington, Oregon, and California.

The OY for each of these five species is comprised of several components that will be reassessed near July 1. The domestic annual harvest (DAH), which consists of estimates of domestic annual processing (DAP) and joint venture processing (JVP), is verified by surveys in November and June of the needs of the domestic fishing and processing industry. The total allowable level of foreign fishing (TALFF) is the remainder, if any, of OY after domestic needs (DAH) have been subtracted. A reserve is established for Pacific whiting to accommodate any underestimates in DAH.

The OYs and ABCs may be changed during the year under the procedures outlined in the regulations at 50 CFR 663.22.

The Pacific Fishery Management Council (Council) reviewed and approved the preliminary specifications for 1984 and received public comment at its November 9–10, 1983, meeting in Boise, Idaho. The aggregate data upon which these preliminary specifications are based are available for public inspection at the Regional Directors' offices during business hours until the end of the comment period.

The 1984 preliminary management specifications are listed in Tables 1 and 2, followed by a discussion of the specifications for each species with a numerical OY and any changes made to the ABC estimates. As regulations stipulate, these specifications of OYs and ABCs do not exceed the OYs and ABCs specified at the beginning of last year by more than 30 percent.

TABLE 1.—PRELIMINARY SPECIFICATIONS OF ACB FOR 1984

[In thousands of metric tons]

Species/areas	Vancouver [1]	Columbia	Eureka	Monterey	Conception	Total
Groundfish:						
Lingcod	1.00	4.00	0	1.10	0.40	7.00
Pacific cod	2.20	.90	[2]	[2]	[2]	3.10
Pacific whiting						[3] 175.50
Sablefish				[4] 2.50		[3] 13.40
Rockfish:						
Pacific ocean perch	.6	.95	[2]	[2]	[2]	1.55
Shortbelly						[3] 10.00
Widow	.30	5.40	1.8	1.80	[2]	9.30
Other rockfish: [5]						
Bocaccio	[2]	[2]	[2]	4.10	2.00	6.10
Canary	.80	1.30	.6	[2]	[2]	2.70
Chilipepper	[2]	[2]	[2]	1.30	1.00	2.30
Yellowtail	1.40	1.50	.30	[2]	[2]	3.20
Remaining rockfish	.50	3.70	1.90	4.30	3.30	13.70
Flatfish:						
Dover sole	2.40	7.20	8.00	5.00	1.00	23.60
English sole	.60	2.00	.80	.90	.20	4.50
Petrale sole	.60	1.10	.50	.80	.20	3.20
Other flatfish (except arrowtooth flounder)	.70	3.00	1.70	1.80	.50	7.70
Other fish: [6]						
Jack mackeral [7]						12.00
Others	2.50	7.00	1.20	2.00	2.00	14.70

[1] U.S. portion.
[2] These species are not common or important in the areas footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted, and rockfish species are included in the "remaining rockfish" category for the areas footnoted.
[3] Total all areas.
[4] Monterey Bay only.
[5] "Other rockfish" means rockfish species listed in § 663.2 which do not have a numerical OY.
[6] "Other fish" includes sharks, skates, ratfish, morids, grenaders, jack mackerel, arrowtooth flounder, and, in the Eureka, Monterey, and Conception areas, Pacific cod. "Other fish" is part of the "other species" category listed in § 663.2.
[7] North of 39°00' N. latitude.

TABLE 2.—PRELIMINARY SPECIFICATIONS OF OY AND ITS DISTRIBUTION FOR 1984

[In thousands of metric tons]

Species	Total OY	DAP	JVP [1]	DAH	Reserve	TALFF [1]
Pacific whiting	175.50	10.00	100.00	110.00	35.00	30.50
Sablefish	[2] 17.40	17.40	.00	17.40	.00	.00
Pacific ocean perch	[3] 1.55	1.55	.00	1.55	.00	.00
Shortbelly rockfish	10.00	3.40	.00	10.00	.00	6.60
Widow rockfish	9.30	9.30	.00	9.30	.00	.00
Other species	[4]					

[1] In the foreign trawl and joint venture fisheries for Pacific whiting, incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: sablefish 0.173%, Pacific ocean perch 0.062%, rockfish excluding Pacific ocean perch 0.738%, flatfish 0.1%, jack mackerel 3.0%, and other species 0.5%. In foreign trawl and joint venture fisheries, "other species" means all species, including non-groundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch flatfish, jack mackerel, and prohibited species. In a foreign trawl or joint venture fishery for species other than Pacific whiting, incidental allowance percentages will be stated in the conditions and restrictions to the foreign fishing permit. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture fisheries.
[2] Of this 17,400 metric tons, 2,500 metric tons is for part of the Monterey subarea. See § 663.21(a)(2).
[3] Of this 1,550 metric tons, 600 metric tons is for the Vancouver subarea and 950 metric tons is for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species." See § 663.21(a)(3).
[4] The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under § 611.70 and Part 663. See § 663.2 for species listing.

Pacific whiting. Although the ABC/OY for Pacific whiting has not been reached in the past 6 years and the very strong 1980 year-class has entered the fishery, reproduction apparently has been poor since 1980. Until further stock analyses are completed, it is prudent to maintain ABC at a level that should produce the maximum sustainable yield (MSY). The 1984 preliminary specifications for ABC, OY, and JVP are the same as in 1983; ABC equals OY at 175,500 metric tons (mt) and JVP is estimated at 100,000 mt. Shore-based processors indicate their intent to process more Pacific whiting in 1984, thus raising DAP from 5,000 to 10,000 mt and DAH from 105,000 to 110,000 mt.

Sablefish. The 1983 ABC for sablefish of 13,400 mt is maintained in 1984. Preliminary estimates indicate that this ABC falls within the range of sustainable production. The OY in 1984 remains above ABC at 17,400 mt, the same as in 1983. Because domestic processors can fully utilize the harvest, there are no sablefish available to JVP or TALFF in 1984.

Pacific ocean perch. Pacific ocean perch have been overfished and are managed under the rebuilding schedule specified in the FMP. A trip limit of 5,000 pounds or 10 percent by weight (all round weights) of all fish on board, whichever is greater, per vessel per fishing trip, is imposed under 50 CFR 663.27(b)(2). Domestic processors will fully utilize OY so there are no Pacific ocean perch available for JVP or TALFF in 1984.

Shortbelly Rockfish. The preliminary 1984 ABC and OY estimates for shortbelly rockfish are 10,000 mt, the same as in 1983. In 1983, DAP was set at 6,000 mt and JVP at 4,000 mt, but shore-based processing was well below the DAP estimate and the joint-venture fishery never materialized. The November survey of the domestic fishing industry's intentions for 1984 indicated that a DAP of 3,400 mt would adequately supply shore-based processing needs, and that no joint venture fishery was planned for 1984. Although the remaining 6,600 mt is available for foreign fishing, most shortbelly are available south of 39° N. latitude, in an area closed to the foreign trawl fishery.

Widow rockfish. The specification for the 1984 coastwide OY and ABC is 9,300 mt, 12 percent less than the 1983 ABC of 10,500 mt and 6 percent less than the projected 1983 landings. This ABC includes a small rebuilding component designed to increase stocks toward MSY levels. The changes in the 1984 ABCs (decreasing 100 mt in the Vancouver area, 100 mt in the Columbia area, and 300 mt in the Monterey area, and increasing 300 mt in the Eureka area) resulted from a lower MSY estimate and other updated population parameters applied to 1983 projected landings. Widow rockfish will be fully utilized by domestic processors in 1984; so none are available for JVP or TALFF.

Other species. The other species managed under the FMP do not have numerical OYs. For the most part, they cannot be harvested selectively and, unless biological stress is documented, are regulated by management measures such as gear restrictions rather than quotas. Full utilization by domestic processors of some species in the multispecies complex precludes joint venture or foreign fishing operations targeting on any underexploited species in the complex because large incidental catches of the fully utilized species are likely to result. Consequently no numerical specifications for DAH, DAP, JVP, and TALFF are made because JVP and TALFF are not available for any species in the multispecies complex.

However, ABCs are specified for the major species or species groups in this complex. Proposed changes to the 1983 ABC estimates for species without a numerical OY are described below:

Remaining rockfish. The ABCs for this group (all rockfish in the management unit except Pacific ocean perch, shortbelly, widow, bocaccio, canary, chilipepper, and yellowtail rockfishes) are lowered by 1,500 mt in the Vancouver area and raised by 1,200 mt in the Columbia area, for a net decrease of 300 mt. These revisions are based on average 1980–1982 landings and are seven percent below the 1983 estimate for the combined Vancouver and Columbia areas.

Dover sole. The 1984 ABCs for Dover sole are increased from 1,000 mt to 2,400 mt in the Vancouver area and from 4,000 mt to 7,200 mt in the Columbia area based on preliminary findings that landings at the level experienced in 1982 will not biologically stress the stock. Gear regulations currently in effect should prevent recruitment overfishing on this species.

Classification

These preliminary specifications are made under the authority of and in accordance with 50 CFR 663.24. This action is in compliance with Executive Order 12291 and is covered by the Regulatory Flexibility Analysis prepared for the implementing regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: November 30, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-32361 Filed 12-5-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 235
Tuesday, December 6, 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.

ACTION

Information Collection Requirement Subject to OMB Review

AGENCY: ACTION.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace, 202–634–9310
Agency Address: ACTION, 806 Connecticut Ave., NW. Washington, D.C. 20525
Office of ACTION Issuing Proposal: *Office of Financial Affairs/ Comptroller*
Title of Form: ACTION System Covering Procurement Proposals
Type of Request: New
Frequency of Collection: On Occasion
General Description of Respondents: Business or other for-profit, non-profit, small business
Estimated Number of Annual Responses: 25
Estimated Annual Reporting or Disclosure Burden: 2000 hrs
Respondent's Obligation to Reply: Required for obtaining benefit
Person responsible for OMB Review: James L. Thomas, 202–395–6880

William W. Lovelace,

ACTION Clearance Officer.

[FR Doc. 83-32442 Filed 12-5-83; 8:45 am]

BILLING CODE 6050-01-M

National Voluntary Service Advisory Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the National Service Advisory Council (Council) will be held on December 13, 1983 from 9:00 A.M.–4:00 P.M. For further details concerning the meeting location, contact Catherine Barr, Special Assistant to the Assistant Director of ACTION for Policy and Planning at (202) 634–9304.

The purpose of this meeting is to brief the Council members on plans and procedures for the 1984 President's Volunteer ACTION Awards and to review other ACTION programs.

Signed this 30th day of November, 1983 in Washington, D.C.

Thomas W. Pauken,

Director, ACTION.

[FR Doc. 83-32443 Filed 12-05-83; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Hoosier Energy Rural Electric Cooperative, Inc.; Bloomington, Indiana; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Proposed Loan Guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $36 million to Hoosier Energy Rural Electric Cooperative, Inc., Bloomington, Indiana, and (b) supplementing such a loan with an insured REA loan in the approximate amount of $4 million to this cooperative. These loan funds will be used to finance cost deficiencies and capital improvements on the Merom Generating Station and to finance (1) the construction of two distribution substations; (2) the upgrading of existing substations; and (3) the upgrading of existing 69 kV transmission lines.

FOR FURTHER INFORMATION CONTACT: Mr. Virgil E. Peterson, Executive Vice-President and General Manager, Hoosier Energy Rural Electric Cooperative Inc., Bloomington, Indiana 47402.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. Peterson at the address given above.

In order to be considered, proposals must be submitted on or before January 5, 1984 to Mr. Peterson. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Hoosier and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: November 30, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-32431 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-15-M

Lower Valley Power & Light, Inc.

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA's Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to proposed financing assistance to Lower Valley Power & Light, Inc. (Lower Valley), of Afton, Wyoming. The financing assistance is necessary for the construction of 161 kV transmission facilities in Lincoln County, Wyoming and Caribou County, Idaho.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and Lower Valley's Borrower's Environmental Report (BER) may be reviewed at or obtained from Mr. William E. Davis, Director, Western Area—Electric, Rural Electrification Administration, Room 3304, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or Lower Valley Power & Light, Inc. Highway 89, Afton, Wyoming 83110, telephone: (307) 886–3175, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by Lower Valley and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project would consist of approximately 46 km (29 miles) of double circuit 161 kV transmission line which would extend from the Dry Creek Substation in Lincoln County, Wyoming, to the Tincup Substation in Caribou County, Idaho.

The BER and EZ adequately consider potential impacts of the proposed project to resources including threatened and endangered species, important farmlands, cultural resources, floodplains and wetlands.

Alternatives examined included no action, energy conservation, underground construction and alternative routes. The proposed route would extend generally north and then west to the Tincup Substation. The alternative corridor would generally extend north, then west to the Idaho-Wyoming state line and then north to the Tincup Substation. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets Lower Valley's needs with a minimum of adverse impact.

Based upon the BER and other related data, REA prepared an EA and Finding of No Significant Impact concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA's Bulletin 20–21:320–21, dated January 21, 1980, Lower Valley advertised the availability of the BER in the local newspapers. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: November 30, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 32432-12 Filed 12-5-83; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Order 83-11-103; Docket 41833]

Complaint of the U.S. Flag Carriers Providing Scheduled Service Between the U.S. and Jamaica; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th Day of November 1983.

On November 16, 1983, the four U.S. flag carriers providing scheduled service between the U.S. and Jamaica—Air Florida, Inc., American Airlines, Inc., Eastern Air Lines, Inc., and Pan American World Airways, Inc., (complainants)—filed a joint compliant against the Government of Jamaica and Air Jamaica. The gravamen of the complaint is that the Government of Jamaica has breached and continues to breach its obligation arising under Article 10(5) of the 1979 Air Transport Protocol between the United States and Jamaica which provides for unrestricted conversion and remittance of local currencies. The complaint alleges that the complainants have been unable to effectively convert their excess Jamaica currency to U.S. dollars; that the Jamaican authorities have refused to credit the Jamaican earnings of the four carriers at the official rate in effect when the funds were deposited, causing in effect a retroactive devaluation; and that the carriers must now rely on the unresponsive and almost nonexistent parallel currency market for conversion and remittance.

The complainants allege that these actions have resulted in currency conversion losses of up to $2.4 million through September 30, 1983, placing them at a severe competitive disadvantage vis-a-vis Air Jamaica and constituting unjustifiable and unreasonable restrictions on U.S. air carrier access to the Jamaica market. The complainants request that we exercise our authority under section 402(f) of the Federal Aviation Act of 1958, as amended (Act), section 2(b) the International Air Transportation Fair Competitive Practices Act of 1974, as amended (IATFCPA), and Part 213 of the Board's Economic Regulations to curtail the operating rights of Air Jamaica until such time as the Government of Jamaica permits the prompt repatriation of the complainants' currency at officially recognized rates of exchange.

Specifically, the complainants recommend that the Board act to order "the immediate elimination of at least one round trip nonstop flight (operated five or more times per week) scheduled in each of Air Jamaica's U.S.-Jamaica nonstop markets and to cap the number of all Air Jamaica flights at that reduced service level" (Complaint at 10). The complainants also urge the Board to put Air Jamaica on clear and explicit notice that, in the absence of rectifying action, the Board will order further reductions in Air Jamaica's pattern of service until the U.S. carriers obtain the relief to which they are entitled. Alternatively, the complainants urge the Board to impose a condition on Air Jamaica's permit "requiring Air Jamaica to escrow a percentage of its U.S. generated revenues to the same degree U.S. flag carriers have had their remittances blocked and the official exchange rate withheld." (*Id.* at 11). In addition, the complainants state that the Board should withhold approval of any new air Jamaica service, and in particular air Jamaica's announced Atlanta-Montego Bay service, until the U.S. air carrier claims are adequately addressed.

The International Air Transportation Competition Act of 1979 substantially expanded our ability to deal with allegations of unfairly restrictive and discriminatory practices by foreign governments and foreign airlines. We now possess power to respond quickly to such practices through amendments to section 402 of the act and section 2 of the IATFCPA which permit us to deny, alter, amend, modify, suspend, cancel, limit or condition any foreign air carrier permit or tariff if we find such action to be in the public interest. They also enable us to act without any hearing or to dispense with oral evidentiary hearings and base our decision on written evidence and arguments

submitted by interested parties in appropriate circumstances. Furthermore, to ensure that complaints filed under this legislation receive prompt attention, section 2 of the IATFCPA provides that we shall approve, deny, dismiss or set a complaint for hearing, or institute other proceedings proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action in increments of 30 days up to 180 days, if we conclude that it is likely that the complaint can be satisfactorily resolved through negotiations.

Part 213 of our Economic Regulations allows us, with or without hearing, to order a foreign carrier to file its schedules with us if we find that the public interest so requires and that a foreign government, over the objection of the U.S. Government, has (1) taken action which impairs, limits, terminates or denies operating rights, or (2) otherwise denied, or failed to prevent the denial of, the fair and equal opportunity to exercise the operating rights provided for in an air transport agreement between the U.S. and the foreign country. It further allows us—subject to stay or disapproval by the President—to disapprove, in whole or in part, a foreign carrier's schedules.

With these considerations in mind, we have decided to invite all interested persons to answer the complaint in this docket. Answers shall include all data, evidence, and argument upon which persons rely to support their position, and shall cover all substantive and procedural issues they wish the Board to consider. We will also provide an opportunity to reply to these answers.

Answers shall be filed no later than 20 days from the service date of this order, and replies no later than 10 days from that answer date.[1] Given the urgency of the situation described in the complaint, we will not be disposed to grant requests for extension of these dates.

After receipt and consideration of these pleadings and any evidence submitted, we will issue a further order in this proceeding. As indicated above, we may either provide for further procedures, defer action for 30 days, or grant, dismiss, or deny the complaint in whole or in part.

Accordingly,

1. We invite any interested person to file and serve upon persons named in paragraph 3, below, no later than December 20, 1983, answers to the complaint in Docket 41833. If comments are filed, replies may be filed, and must be served as above, but no later than December 30, 1983;

2. If timely and properly supported requests are filed, we will give consideration to the matters and issues raised by the requests before we take further action, provided that we may order further procedures within the statutorily determined time period; and

3. We will serve this order upon Air Florida, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Pan American World Airways, Inc., Air Jamaica, the Ambassador of Jamaica in Washington, D.C., and the United States Departments of State and Transportation.

We shall publish this Order in the **Federal Register.**

By the Civil Aeronautics Board.[2]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-32489 Filed 12-5-83; 8:45 am]

BILLING CODE 6320-01-M

[1] We delegate to the Director, Bureau of International Aviation, the authority to dispose of all procedural questions arising in this proceeding, except for requests for oral evidentiary hearings, until further Board order.

[2] All Members concurred.

DEPARTMENT OF COMMERCE

Office of the Secretary

President's Commission on Industrial Competitiveness; Meetings

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meetings.

SUMMARY: The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Dates, Locations, and Times:

Date	Location	Time
December 19, 1983:		
Human Resources Committee (a subcommittee of the Commission).	Hewlett Packard Hdqtrs., 300 Hanover Street, Palo Alto, CA 94303, The Belmont Room.	2 p.m. to 6 p.m.
Research, Development and Manufacturing Committee (a subcommittee of the Commission).	Ricky's Hyatt Hotel, 4219 El Camino, Palo Alto, CA 94306, The Marsten Room.	4 p.m. to 10 p.m.
December 20, 1983: Full Commission meeting	Hewlett Packard Hdqtrs., 300 Hanover Street, Palo Alto, CA 94303, The Auditorium.	8 a.m. to 1 p.m.
December 21, 1983:		
Human Resources Committee (a subcommittee of the Commission).	Ricky's Hyatt Hotel, 4219 El Camino, Palo Alto, CA 94303, The Edwards Room.	8 a.m. to 1 p.m.
Capital Resources Committee (a subcommittee of the Commission).	Ricky's Hyatt Hotel, 4219 El Camino, Palo Alto, CA 94303, The Holtum Room.	8 a.m. to 1 p.m.
International Trade Committee (a subcommittee of the Commission).	Ricky's Hyatt Hotel, 4219 El Camino, Palo Alto, CA 94303, The Foster Room.	8 a.m. to 1 p.m.
Research, Development and Manufacturing Committee (a subcommittee of the Commission).	Ricky's Hyatt Hotel, 4219 El Camino, Palo Alto, CA 94303, The Marsten Room.	8 a.m. to 1 p.m.

Public Participation: The meetings will be open to public attendance. A limited number of seats will be available for the public on first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: John Paul Royston, President's Commission on Industrial Competitiveness, 734 Jackson Place, NW., Washington, DC 20503, telephone: 202-395-4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202-377-4217 on issues regarding administration of the Commission.

Dated: November 30, 1983.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 83-32394 Filed 12-1-83; 11:04 am]

BILLING CODE 3510-18-M

International Trade Administration

[Case No. 626]

Piher Semiconductores, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of Piher Semiconductores, S.A., Avda San Julian, s/n Apartado Correos 177, Granallers (Barcelona), Spain.

By Orders of April 9, 1982, 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), December 7, 1982, 47 FR 55989 (December 14, 1982), March 22, 1983, 48 FR 12762 (March 28, 1983), May 19, 1983, 48 FR 23471 (May 25, 1983), and August 26, 1983, 48 FR 40418 (September 7, 1983), 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 August 26, 1983 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardships 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 Paragaraph 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 certion 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 justfied, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby orderd 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 February 1984 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 February 1984 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 December 1, 1983.

Dated: November 30, 1983. E.S.T. 3:30 pm.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 83-32450 Filed 12-5-83; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council and Habitat Advisory Panels

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94-265, as amended). The Council has also established Habitat Advisory Panels(APs). The Council and Habitat APs will hold separate public meetings as follows.

Agendas

The Council will meet to discuss the Mackerel Fishery Management Plan amendment options and reef fish preemption and information pertaining to size limit and survivability. The Council will convene its Habitat AP members for Florida/Alabama, Mississippi/Louisiana and Texas for general orientation discussion as well as discussion of several pending development projects.

DATES: *Council*—Wednesday, December 14, 1983 (1:30 a.m. to approximately 5:30 p.m.); Thursday, December 15, 1983 (8 a.m. to approximately 5:30 p.m.); Friday, December 16, 1983 (8 a.m. to approximately 10 a.m.). The meeting will be held at the Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, Florida. *Habitat APs*—Monday, December 12, 1983 (2 p.m. to approximately 5 p.m.); Tuesday, December 13, 1983 (8 a.m. to approximately 5 p.m.). The meeting will be held at the Barclay Best Western Hotel, 5303 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 229-2815.

Dated: November 30, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-32369 Filed 12-5-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With Taiwan on Man-Made Fiber Luggage in T.S.U.S.A. Number 706.4150

December 5, 1983.

On November 29, 1983, the United States Government, under Section 204 of the Agricultural Act of 1956, as amendsed (7 U.S.C. 1854), requested the authorities in Taiwan to enter into consultations concerning exports to the United States of man-made fiber luggage classified in T.S.U.S.A. number 706.4150, produced or manufactured in Taiwan.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of man-made fiber luggage classified in T.S.U.S.A. number 706.4150, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on December 1, 1983 and extend through November 30, 1984 to a level of 58,004,491 pounds.

Anyone wishing to comment or provide data information regarding the treatment of man-made fiber luggage classified in T.S.U.S.A. 706.4150 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further considertion.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating

to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 32623 Filed 12-5-83; 10:10am]

BILLING CODE 3510-DR-M

Soliciting Public Comments on Bilateral Textile Consultations With Panama on Women's, Girls' and Infants' Wool Sweaters in Category 446

December 5, 1983.

On November 30, 1983, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of Panama to enter into consultations concerning exports to the United States of women's, girls' and infants' wool sweaters in Category 446, produced or manufactured in Panama.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Panama, the Committee for the Implementation of textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Category 446, produced or manufactured in Panama and exported to the United States during the twelve-month period which began on December 1, 1983 and extends through November 30, 1984, at a level of 21,133 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 446 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of consultation is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the pulic which the Committee for the Implementation of Textile Agreemenst considers appropriate for further consideration.

The solication of comments is not waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-32624 Filed 12-5-83; 10:10 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Dominican Republic on Women's, Girls' and Infants' Man-Made Fiber Suits in Category 644

December 5, 1983.

On November 30, 1983, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of the Dominican Republic to enter into consultations concerning exports to the United States of women's, girls' and infants' man-made fiber suits in Category 644, produced or manufactured in the Dominican Republic.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with the Dominican Republic, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 644, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on December 1, 1983 and extends through November 30, 1984 at a level of 22,807 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 644 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be optained upon written request.

Further comment may be invited regarding particular comments or information received from the publie which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)[1] relating to maters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-32625 Filed 12-5-83; 10:10 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia on Category 315 (Printcloth)

December 5, 1983.

On November 30, 1983, the United States, Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the Republic of Indonesia to enter into consultations concerning exports to the United States in Category 315 (printcloth), produced or manufactured in Indonesia.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textile products in Category 315, produced or manufactured in Indonesia and exported to the United States during twelve-month period which began on November 30, 1983, may be restrained at the following amount:

Category	12-Mo limit of restraint
315	9,365,000 square yards.

Anyone wishing to comment or provide data or information regarding the treatment of Category 315 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or

information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-32628 Filed 12-5-83; 10:10 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Hungarian People's Republic on Category 435 (Women's Girls', and Infants' Wool Coats)

December 5, 1983.

On November 29, 1983, the United State Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the Hungarian People's Republic to enter into consultations concerning exports to the United States of wool coats in Category 435, produced or manufactured in Hungary.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within ninety days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of wool textile products in Category 435 (women's girls', and infants wool coats), produced or manufacture in Hungary and exported to the United States during the twelve-month period beginning on November 29, 1983, may-be restrained at a level of 7,795 dozen.

Anyone wishing to comment or provide date or information regarding the treatment of Category 435 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations in not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-32627 Filed 12-5-83; 10:10 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contract Market Designation for the Chicago Mercantile Exchange in the Standard & Poor's Energy Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of hearing and extension of comment period.

SUMMARY: The Commodity Futures Trading Commission has amended its December agenda for the public meeting scheduled for Tuesday, December 6 (47 FR 50003, November 4, 1982). The Commission has received a comment letter from the Securities and Exchange Commission on several proposed subindex contracts raising objections to those contracts and requesting an oral hearing before the Commission.

The Commodity Futures Trading Commission has determined to allow a public hearing to permit a Securities and Exchange Commission presentation regarding the proposed futures contract market designation for the Chicago Mercantile Exchange in the Standard & Poor's (S&P) Energy index and to reopen the comment period at that time for a period of one week.

DATES: The open Comission meeting will be held December 6, 1983 at 9:30 a.m. The comment period will be reopened on December 7, and will close December 14.

ADDRESS: The public meeting will be held at the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 in the Commission hearing room on the 5th floor. Comments should be submitted to the Secretariat of the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Jane K. Stuckey, Secretary of the Commission at the above address. Telephone (202) 254-6314.

Issued in Washington, D.C. on December 1, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-32588 Filed 12-5-83; 10:23 am]

BILLING CODE 6351-01-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket 80-4] Order Directing Further Partial Distribution of 1979 Cable Royalty Fees

The Copyright Royalty Tribunal (Tribunal) on June 3, 1982 (47 FR 24175) directed the distribution of 50% of the amounts allocated in the Tribunal's notice of Final Determination of the 1979 cable royalty fund. The U. S. Court of Appeals for the District of Columbia Circuit denied a stay of this order.

The Tribunal's 1979 Final Determination was appealed in the U. S. Court of Appeals for the District of Columbia Circuit (The Christian Broadcasting Network, Inc. v. The Copyright Royalty Tribunal) by several parties, who raised a number of issues. The Court rejected most challenges to the Tribunal's determination, but remanded several issues for further consideration. After a review of the Court's opinion of October 25, 1983, and of agreements and stipulations filed with the Tribunal relating to the disposition of various matters, the Tribunal has decided to make a further partial distribution of the 1979 cable royalty fund, effective January 12, 1984.

The comments received by the Tribunal on this issue have discussed the classification of the Devotional Claimants. Early in the 1979 proceeding the Motion Picture Association of America and associated program suppliers proposed that the Tribunal establish a new Phase I category for Devotional Claimants. The Tribunal did not alter the classification of claimants in the 1979 proceeding, but did implement this classification prior to the start of the 1980 proceeding. The Tribunal will not alter the 1979 claimant categories. As correctly observed in the November 15, 1983 comments of the National Association of Broadcasters (NAB) if the "Settling Parties" agree among themselves as to the allocation of any Tribunal award to the Devotional Claimants, that agreement controls the situation among those parties, but not among claimants who have not consented to such arrangements. We have approached the issue of 1979 partial distribution on the basis of the arguments advanced by NAB on the Devotional Claimants, which views we share. But our order does respect the

agreement of the "Settling Parties" with regard to their internal allocations on that subject.

Comments received by the Tribunal on the matter of 1979 partial distribution have served to eliminate certain differences between the "Settling Parties" and NAB on the terms of this order. We have adopted the partial distribution scheme proposed by the "Settling Parties" in their letter of November 22, 1983. On the basis of an agreement filed with the Tribunal by counsel for Joint Sports, we have withheld the maximum share sought by NAB for its claims to royalties for sports programming. In doing so we again state that the maximum claims advanced by claimants does not determine the amount in controversy for partial distribution purposes. Our reserve from the distribution made to the "Settling Parties" (except National Public Radio) and from the Phase II syndicator claimants to cover any award to Devotional Claimants does not constitute a ceiling on any award in the 1979 proceeding to Devotional Claimants.

In accordance with the above and the comments received by the Tribunal, the Tribunal directs the following partial distribution of 1979 royalties:

	percent
MPAA	27.515
Joint Sports	0.588
PBS	2.131
U.S. Television (NAB)	2.384
Music Performing Rights	1.725
Canadian Television	0.360
National Public Radio	0.125
Multimedia	0.448
SIN	0.196
Mutual of Omaha	0.028
Total	35.500

Dated: November 30, 1983.

Commissioner Edward W. Ray,

Chairman.

[FR Doc. 83-32451 Filed 12-5-83; 8:45 am]

BILLING CODE 1410-13

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

United States Air Force Invoice, AF Form 15

Any individual firm, domestic or foreign government function, or any other agency that sells supplies or services to an authorized Air Force representative, on an emergency basis, is required to provide billing and payment information, articles or services sold, quantities, and price in the invoice, and to sign the invoice.

State or local governments, businesses, federal agencies, small businesses: 60,000 responses, 75,000 hours.

Forward coments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Mr. Gleen Moss, HQ USAF/LEYSF, Pentagon, Washington, D.C.. 20330, telephone (202) 695-0461.

Dated: December 1, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-32420 Filed 12-5-83; 8:45 am]

BILLING CODE 3910-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

United States Air Force Avfuels Invoice, AF Form 315

Any individual firm, domestic or foreign government function or any other agency that makes into-plane fuel sales to USAF aircraft is required to enter the name of the payee, address to mail payment, type and quantity of product sold, unit and total price in the invoice, and to provide the Air Force with a signed invoice, for payment.

State or local governments, businesses, federal agencies, small businesses: 21,580 responses; 37,500 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Mr. Glenn Moss, HQ USAF/LEYSF, Pentagon, Washington, D.C. 20330, telephone (202) 695-0461.

Dated: December 1, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-32427 Filed 12-05-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP83-348-002]

Algonquin Gas Transmission Co.; Petition To Amend

December 2, 1983.

Take notice that on November 4, 1983, Algonquin Gas Transmission Company (Algonquin) 1248 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP83-348-002 a petition to amend the order issued June 30, 1983, in Docket No. CP83-340-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize interruptible sales service on behalf of existing customers for an unlimited term, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued June 30, 1983, Algonquin was authorized to render gas sales service, on an interruptible basis, to existing Rate Schedule F–1 customers, pursuant to Algonquin's Rate Schedule I–2, for a term from April 15, 1983, through November 15, 1983. The service available under Rate Schedule I–2 is contingent upon the availability of surplus gas on the Texas Eastern Transmission Corporation (Texas Eastern) system, a pipeline supplier of Algonquin, it is asserted. The surplus gas was made available to Algonquin under Texas Eastern's Rate Schedule I–D.

Algonquin now requests amendment of the June 30, 1983, order so as to authorize Algonquin to render Rate Schedule I–2 service for an unlimited term. Algonquin avers that Texas Eastern has informed it that gas surplus to its system requirements may be available under Rate Schedule I–D in subsequent years. Algonquin further avers that its existing customers have expressed an interest in an a need for continuous service pursuant to Rate Schedule I–2.

Algonquin states that the proposed service would enable customers purchasing gas under Algonquin's firm Rate Schedule F–1 to receive additional quantities of surplus gas in subsequent years if and to the extent that Texas Eastern makes such gas available and operation conditions allow.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Dec. 23, 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 the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3246 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-23-000]

Aquenergy Systems, Inc.—Woodside I; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 2, 1983.

On October 21, 1983, Aquenergy Systems, Inc. of P.O. Box 8991, Greenville, South Carolina 29604, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 400 kilowatt hydroelectric facility is located on the Twelve Mile Creek near the Town of Cateechee in Pickens County, South Carolina.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32483 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-297-000]

Arkansas Power & Light Co.; Refund Report

December 2, 1983.

Take notice that on November 16, 1983, Arkansas Power & Light Company ("Arkansas") submitted for filing its Refund Report pursuant to the Commission Order issued October 4, 1983.

Arkansas states that the Refund Report shows the monthly billing determinants, revenue receipt dates and revenues under the prior, present and settlement rates, the monthly revenue refund, and the monthly interest computed, together with a summary for the total refund period.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before December 19, 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. 83-32484 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-328-003]

Colorado Interstate Gas Co.; Petition

December 2, 1983.

Take notice that on November 7, 1983, Colorado Interstate Gas Company (Petitioner), Post Office Box 1087, Colorado Springs, Colorado 80904, filed in Docket No. CP81–328–003 a petition to amend the order issued August 2, 1983, in Docket No. CP81–328–000 pursuant to Section 7(c) of the Natural Gas Act so as to reduce the horsepower of the Beaver County, Oklahoma, compressor station, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 2, 1983, Petitioner was authorized to construct and operate an approximate 4,400 horsepower compressor station in Beaver County, Oklahoma. Petitioner states that three Superior Model 8GTLA compressor units, rated at 1,100 horsepower each, have been selected for installation at the Beaver County compressor station. These units, it is asserted, would satisfy projected requirements and would result in an estimated capital cost reduction of approximately $2.1 million from that proposed for a 4,400 horsepower station. Petitioner explains that an update to available gas supplies indicates that reduced volumes of gas would be compressed at the Beaver County compressor station with increased

production from Mocave/Laverne and that the three units would provide sufficient redelivery volumes to satisfy contract requirements to Michigan Wisconsin Pipe Line Company at Beaver County and Natural Gas Pipeline Company of America at Forgan.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 24026, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32465 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-38-000],

Columbia Gulf Transmission Co. Columbia Gas Transmission Corp.; Application

December 2, 1983.

Take notice that on October 28, 1983, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP84-38-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Gas Supply Corporation (Consolidated), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that pusuant to an agreement between them and Consolidated dated July 28, 1982, Applicants propose to transport up to 150,000 dt equivalent of natural gas per day for Consolidated on a best efforts basis. It is stated that Columbia Gulf would receive gas at the following existing delivery points:

Point of delivery	Maximum daily quantities(dt)
a. The terminus of Sea Robin Pipeline System in Vermilion Parish, near Erath, Louisiana (Erath)	25,000
b. The terminus of the Blue Water Project in Acadia Parish, near Egan, Louisiana, (Egan), and	50,000
c. Michigan Wisconsin Pipe Line Company's Patterson Compressor Station in St. Mary Parish, Louisiana (St. Mary), and	45,000
d. Such other delivery points at which Consolidated can deliver gas to Columbia Gulf	

It is further stated that Columbia Gulf would deliver equivalent volumes of gas, less fuel and unaccounted-for gas to Columbia Gas, for the account of Consolidated, at an existing point of interconnection between Applicants' facilities in Leach, Kentucky.

It is indicated that Columbia Gas would then deliver equivalent volumes of gas, less fuel and unaccounted for gas, to Consolidated or for Consolidated's account at

a. Columbia Gas' existing Rockport delivery point in Steele District, Wood County, West Virginia; and/or

b. Texas Gas Transmission Company's existing delivery point to Columbia Gas in Warren County, Ohio, near Lebanon; and/or

c. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.'s existing Broad Run delivery point to Columbia Gas in Kanawha County, West Virginia; and/or

d. Such other points at which Columbia Gas can deliver gas to or for the account of Consolidated.

It is stated that under the agreement Columbia Gulf is entitled to charge Consolidated 26.93 cents per Mcf for gas received at the Erath and St. Mary delivery points and 23.40 cents for gas received at the Egan delivery point. Additionally, it is claimed Columbia Gas is entitled to charge Consolidated its average system-wide unit storage and transmission cost as reflected in its FERC rate filing. This charge, it is said, is currently 40.11 cents per dt.

Applicants assert that this transportation service began on January 6, 1983, pursuant to Subpart G of Part 284 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 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 the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32466 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-33-000]

Confederated Salish and Kootenai Tribes—Boulder Creek Hydroelectric Project; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 2, 1983.

On November 8, 1983, the Confederated Salish and Kootenai Tribes of P.O. Box 278, Pablo, Montana 59855, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 340 kilowatt hydroelectric facility is located at Section 26, 34, 25 T24N, R19W in Lake County, Montana.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of

Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32467 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-19-000]

Empire Hydro Partners Limited Partnership; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 2, 1983.

On October 19, 1983, Empire Hydro Partners Limited Partnership of 1715 Soo Line Building, Fifth and Marquette, Minneapolis, Minnesota 55402, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 1,000 kilowatt hydroelectric facility will be located on the Black River in the Village of Port Leyden, Towns of Leyden and Lyonsdale, Lewis County, New York.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State of Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32468 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-36-000]

Golden Triangle Gas Distribution Co.; Application

December 2, 1983

Take notice that on October 28, 1983, Golden Triangle Gas Distribution Company (Applicant), 1200 Milam Street, Suite 3300, Houston, Texas 77002, filed in Docket No. CP84-36-000 an application pursuant to Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act and the Regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicant is a wholly-owned subsidiary of the Tatham Pipeline Company (Tatham) and is a pipeline presently engaged in making wholesale sales of gas to customers solely within Texas. It is indicated that the gas is presently being purchased by Applicant from producers in Oklahoma and transported by interstate pipelines on behalf of Applicant pursuant to Section 311 of the National Gas Policy Act of 1978 (NGPA), 15 U.S.C. § 3371. Applicant states that it presently sells the gas to two industrial consumers located in Orange and Jefferson counties, Texas, and that its facilities are located wholly within Texas, and all of the gas is consumed wholly within Texas.

Applicant states that in Docket No. CP83-116-000, United States Natural Gas Corporation (U.S. Natural), an affiliate of Applicant, has applied to succeed to the facilities and obligations of two interstate pipelines owned by Tatham, the parent company of U.S. Natural and Applicant. It is explained that once successor certificates are issued, U.S. Natural would be an interstate pipeline as that term is defined in Section 2(15) of the NGPA, 15 U.S.C. § 3301(15), and would engage in the sale for resale and transportation of natural gas in interstate commerce. It is further explained that concurrently with the filing of the subject application, U.S. Natural, in Docket No. CP84-37-000, has applied, pursuant to Section 7 of the Natural Gas Act, 15 U.S.C. 717f, for a certificate of public convenience and necessity authorizing it to sell and transport natural gas in interstate commerce to Applicant and to acquire and operate facilities subject to the Commission's jurisdiction that are necessary to render service to Applicant.

It is stated that to effectuate deliveries to Applicant, U.S. Natural proposes to acquire certain facilities known as the "Sabine River Crossing" facilities, which are presently owned by Tatham. Applicant states that it would receive the gas at several points of delivery located wholly within Texas, and that it would continue to make sales of gas to its existing customers and anticipates adding new customers, all within Texas. Applicant maintains that none of the gas received would move out of Texas.

It is explained that Applicant's natural gas rates, service and facilities are subject to the Railroad Commission of Texas' jurisdiction and that the Railroad Commission of Texas is exercising that jurisdiction.

Applicant, therefore, requests a declaration of exemption pursuant to Section 1(c) of the Natural Gas Act, to become effective on the date of commencement of deliveries from U.S. Natural under the certificate applied for in Docket No. CP84-37-000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 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 the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a

proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32469 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7624-000]

Hydroelectric Applications; Independence Electric Corp.; Errata Notice

December 2, 1983.

The notice of application for preliminary permit issued on October 21, 1983, 48 FR 51820 (November 14, 1983), is revised as follows:

Paragraph 3(1), column 3: "This notice also consists of the following standard paragraphs: A5, A7, B, C, and D2" is revised to read "This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32470 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-76-000]

Iowa Southern Utilities Co.; New Tariff

December 1, 1983.

The filing Company submits the following:

Take notice that Iowa Southern Utilities Company on November 16, 1983 tendered for filing in its FERC Electric Service Tariff Volume No. 1 additional Sheets No. 16 and 17. The additional sheets would provide proposed new rates for interruptible or partial service customers.

The purpose of the filing is to make an interruptible or partial service rate available for use by the present or future customers who have generation facilities and to provide the Company with an appropriate rate to utilize for any prospective customer that may develop.

Copies of the filing have been mailed to the Iowa State Commerce Commission. Copies have not been served upon any other party as there are no such customers at this time.

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 December 15, 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. 83-32471 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

Milstar Manufacturing Corp., Application for Commission Certification of Qualifying Status of a Small Power Production Facility

[Docket No. QF84-38-000]

December 2, 1983.

On November 10, 1983, Milstar Manufacturing Corp., of 1045 Sixth Avenue, New York, New York, 10018, filed with the Federal Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 4.8 megawatt hydroelectric facility is located on the Kennebec River near the Town of Waterville in Kennebec County, Maine.

Any person desiring to be herd or objecting to the granting of qualifying status as a small power production facility should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32472 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM81-19 and ST84-1, et al.]

Natural Gas Pipeline Co. of America; Self-Implementing Transactions

December 2, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by

a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (cents per MMBTU)
ST84-1	Natural Gas Pipeline Co. of America	Archer-Daniels-Midland Co	10-03-83	F(157)		
ST84-2	Producer's Gas Co	Bridgeline Gas Distribution Co	10-03-83	D		
ST84-3	Michigan Wisconsin Pipe Line Co	Archer-Daniels-Midland Co	10-03-84	F(157)		
ST84-4	Natural Gas Pipeline Co. of America	Southern Natural Gas Co	10-04-83	G		
ST84-5	Columbia Gas Transmission Corp	Ohio Dehy, Inc	10-03-84	F(157)		
ST84-6	Michigan Consolidated Gas Co	A. E. Staley Manufacturing Co	10-04-84	G(HS)		
ST84-7	Tennessee Gas Pipeline Co	Natural Gas Pipeline Co. of America	10-04-84	G		
ST84-8	do	Creole Gas Pipeline Corp	10-04-83	B		
ST84-9	do	Cajun Natural Gas Co	10-04-83	B		
ST84-10	do	Transcontinental Gas Pipe Line Corp	10-04-83	G		
ST84-11	Oklahoma Natural Gas Co	Westar Transmission Co	10-04-83	C		
ST84-12	National Fuel Gas Supply Corp	Delmarva Power and Light Co	10-05-83	B		
ST84-14	Northern Natural Gas Co	Allied Corp	10-05-83	F(157)		
ST84-15	United Gas Pipe Line Co	American Cyanamid Co	10-05-83	F(157)		
ST84-16	Transcontinental Gas Pipe Line Corp	Commonwealth Gas Pipeline Corp	10-07-83	B		
ST84-17	do	Piedmont Natural Gas Co	10-07-83	B		
ST84-18	do	Commonwealth Gas Pipeline Corp	10-07-83	B		
ST84-19	Inland Gas Co., Inc	Columbia Gas of Kentucky, Inc	10-07-83	B		
ST84-20	Llano, Inc	Neches Gas Distribution Co	10-07-83	C	03-05-84	28.80
ST84-21	Rocky Mountain Natural Gas Co., Inc	Northwest Pipeline Corp	10-11-83	C		
ST84-22	Michigan Wisconsin Pipe Line Co	Richie Gas System	10-11-83	B		
ST84-23	do	ENTEX	10-11-83	B		
ST84-24	do	Sugar Bowl Gas Corp	10-11-83	B		
ST84-25	National Fuel Gas Supply Corp	Columbia Gas Transmission Corp	10-11-83	G		
ST84-26	Sabine Pipe Line Co	Neches Gas Distribution Co	10-11-83	B		
ST84-27	Trunkline Gas Co	Amoco Gas Co	10-11-83	B		
ST84-28	do	Houston Pipe Line Co	10-11-83	B		
ST84-29	Sugar Bowl Gas Corp	Michigan Wisconsin Pipe Line Co	10-11-83	C		
ST84-30	Consolidated Gas Supply Corp	Tennessee Gas Pipeline Co	10-11-83	G		
ST84-31	Florida Gas Transmission Co	Tejas Gas Corp	10-12-83	B		
ST84-32	United Gas Pipe Line Co	Gulf South Pipeline Co	10-14-83	B		
ST84-34	Transcontinental Gas Pipe Line Corp	Delmarva Power and Light Co	10-17-83	B		
ST84-35	Northern Natural Gas Co	Endevco Pipeline Co	10-17-83	B		
ST84-36	Tennessee Gas Pipeline Co	Gas Services, Inc	10-17-83	B		
ST84-37	Michigan Wisconsin Pipe Line Co	A. E. Staley Manufacturing Co	10-17-83	F(157)		
ST84-38	Florida Gas Transmission Co	Tejas SW Two	10-13-83	B		
ST84-39	Houston Pipe Line Co	Neches Gas Distribution Co	10-19-83	C		
ST84-40	Oasis Pipe Line Co	do	10-19-83	C		
ST84-41	Houston Pipe Line Co	Texas Eastern Transmission Corp	10-19-83	C		
ST84-42	Florida Gas Transmission Co	Tennessee Gas Pipeline Co	10-19-83	G		
ST84-43	United Texas Transmission Co	do	10-20-83	C		
ST84-44	El Paso Natural Gas Co	Endevco Pipeline Co	10-20-83	B		
ST84-45	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	10-21-83	B		
ST84-46	Gas Co. of New Mexico	El Paso Natural Gas Co	10-21-83	G(HT)		
ST84-47	Valley Gas Transmission, Inc	Vista Transmission Co	10-21-83	B		
ST84-48	Louisiana Intrastate Gas Corp	Mid Louisiana Gas Co	10-21-83	C		
ST84-49	Northwest Pipeline Corp	Washington Natural Gas Co	10-21-83	B		
ST84-50	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	10-24-83	B		
ST84-51	United Gas Pipe Line Co	Transcontinental Gas Pipe Line Corp	10-25-83	G		
ST84-52	Michigan Gas Storage Co	Southeastern Michigan Gas Co	10-26-83	B		
ST84-53	Valero Interstate Transmission Co	American Pipeline Co	10-26-83	B		
ST84-54	Delhi Gas Pipeline Corp	Tennessee Gas Pipeline Co	10-26-83	C		
ST84-55	Houston Pipe Line Co	do	10-26-83	C		
ST84-56	Columbia Gulf Transmission Co	do	10-26-83	G		
ST84-57	do	The Babcock and Wilcox Co	10-25-83	F(157)		
ST84-58	Natural Gas Pipeline Co. of America	Kansas Power and Light Co	10-28-83	B		
ST84-59	do	A. E. Staley Manufacturing Co	10-31-83	F(157)		
ST84-60	do	Houston Pipe Line Co	10-31-83	B		
ST84-61	Northern Border Pipeline Co	United Gas Pipe Line Co	10-28-83	G		
ST84-62	Northwest Central Pipeline Corp	Atlas Powder Co	10-31-83	F(157)		
ST84-63	Northern Natural Gas Co	Intratex Gas Co	10-31-83	B		
ST84-64	Michigan Wisconsin Pipe Line Co	Washington Gas Light Co	10-31-83	G		
ST84-65	Superior Offshore Pipeline Co	Louisiana Intrastate Gas Co	10-31-83	B		
ST84-66	do	do	10-31-83	B		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 83-32473 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-73-000]

New England Power Co.; Refund Report

December 2, 1983.

Take notice that on November 15, 1983, New England Power Company ("NEPCO") submitted for filing its Refund Report pursuant to a Commission Order issued on October 4, 1983.

NEPCO states that the Refund Report sets out the monthly billing determinants and revenues under the present, as well as the settlement rates, the monthly revenue refund and the monthly interest refund, together with a summary for the refund period, which is from January 1, 1983 through September 30, 1983.

A copy of the Refund Report is being sent to the parties on the service list and the Massachusetts Department of Public Utilities.

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. 20246, on or before December 23, 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. 83-32474 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

New England Power Co.; Revised Filing

[Docket No. ER84-62-000]

December 2, 1983.

Take notice that New England Power Company ("NEP") on November 21, 1983, tendered for filing amendments to two Power Contracts between NEP and Massachusetts Municipal Wholesale Electric Company and the Town of Templeton Municipal Lighting Plant. The proposed effective date is January 1, 1984.

NEP states that the proposed amendment will increase the demand charge for Salem Harbor Unit No. 3 from a settlement level of $117.00 per KW.YR. to $4140.00 per KW.YR. resulting in a annual increase in capacity charges of $587,420.

NEP states further that the proposed Rate is predicated in part upon NEP's W-6 filing made July 29, 1983. For this reason, NEP requests waiver of certain of the Commission's Regulations.

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 Capital Street, N.E., of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 20, 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. 83-32475 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-24-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

Take notice that on October 20, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP 83-24-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Northern proposes to abandon and remove twelve (12) small volume measuring stations in the States of Oklahoma, Kansas, Texas, Iowa, and Minnesota, and the abandonment of a portion of lateral line in Ford County, Kansas under the authorization issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern has been advised by its distribution customer, Peoples Natural Gas Company, Division of InterNorth, Inc., (Peoples) that the proposed abandonment of facilities involves twelve small volume measuring station customers which no longer desire natural gas service. Peoples has also advised Northern that it no longer requires service rendered by Northern by means of 5,360 feet of 10¾-inch lateral line pipe in Ford County, Kansas. It is indicated that peoples has its own line that runs parallel to Nothern's and is utilized for delivery of gas in Ford County and that the lateral line would be abandoned in place. The proposed abandonment of facilities is estimated to cost $2,406. There would be no disruption of service as a result of the abandonment, it is maintained.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32476 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM81-19, Docket No. ST82-194-001, et al.]

Producer's Gas Co.; Extension Reports

December 2, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used

for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before December 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	*Effective date
ST82-194-001	Producer's Gas Co., 950 One Energy Square, Dallas, TX 75206	Panhandler Eastern Pipe Line Co	11-10-83	C	01-22-84
ST82-202-001	Natural Gas Pipeline Co. of America, 122 S. Michigan Ave., Chicago, IL 60603	Entex, Inc	11-03-83	B	02-04-84
ST82-206-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202	Transcontinental Gas Pipe Line Corp	11-01-83	G	02-03-84
ST82-208-002	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Tennessee Gas Pipeline Co	11-15-83	C	02-15-83
ST82-223-001	do	United Gas Pipe Line Co	11-15-83	C	02-16-84

* These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.
Note: The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 83-32453 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER80-671-000, ER80-608-001 and ER80-610-001, Consolidated With ER80-592-000, et al.]

Public Service Co. of Oklahoma; Refund Report

December 2, 1983.

Take notice that on November 9, 1983, the Public Service Company of Oklahoma ("PSO") submitted for filing its Refund Report pursuant to a Commission Letter Order issued on October 19, 1983.

PSO states that there are no refunds due to the parties affected under these dockets because PSO has continued to apply 2 mills per kilowatthour instead of the approved settlement rate of 2.37 mills per killowatthour.

PSO requests that the Commission terminate these dockets.

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 December 21, 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. 83-32454 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-24-000]

Santa Fe Irrigation District & San Dieguito Water District; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 2, 1983.

On October 21, 1983, Santa Fe Irrigation District and San Dieguito Water District of P.O. Box 409, Rancho Santa Fe, California 92067, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 1.485 megawatt hydroelectric facility is located near Rancho Santa Fe, California.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32455 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-47-000]

South Georgia Natural Gas Co.; Application

December 2, 1983.

Take notice that on November 4, 1983, South Georgia Natural Gas Company (Applicant), Post Office Box 1279, Thomasville, Georgia 31799, filed in Docket No. CP84-47-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of an existing standby 1100 horsepower turbine compressor and the construction and operation of certain piping facilities to connect the standby compressor in a series configuration with the existing compressor, all located in Applicant's Albany Compressor Station, Dougherty County, Georgia, all as more fully set

forth in the application which is on file with the Commission and open to public inspection.

Applicant states that during periods of peak demand the single compressor is not sufficient to maintain pipeline delivery contract pressures to its customers, at some locations, on the outlying legs of its system.

Applicant states the instant proposal would enhance its ability to meet customer requirements during periods of peak demand. The proposed facilities, estimated to cost $125,000, would be financed from cash reserves.

Any person desiring to be heard or to make any protest with reference to said application should on or before Dec. 23, 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 the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in an subject to jurisidiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedures, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32456 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-9-000]

United States Department of Interior, Bureau of Land Management, NGPA Section 108 Determination, Getty Oil Co., Mexico Federal "M" No. 1 Well, JD 83-47420, Jicarilla "C" No. 10 Well, JD 83-47421; Preliminary Finding

Issued: December 1, 1983.

Background

On August 1, 1983, the Bureau of Land Management (BLM) filed with the Federal Energy Regulatory Commission (Commission) notice of its determinations that Getty Oil Company's Mexico Federal "M" No. 1 Well and the Jicarilla "C" No. 10 Well failed to qualify as "stripper gas wells" under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981). The Mexico Federal "M" No. 1 Well and the Jicarilla "C" No. 10 Well are both dually completed wells.[1]

BLM's method of computing the daily average production resulted in averages for the subject wells which exceeded the 60 Mcf per production day limit for the 90-day period on which the application is based and the 70 Mcf per production day limit for the 12-month period on which the maximum efficient rate of flow is based [2] Commission staff, upon review of BLM's notices, found that additional information was required to determine if BLM's determinations were supported by substantial evidence in the record on which the determination was made. Staff therefore requested BLM to provide an explanatory statement of its reasons for a negative determination, in accordance with § 274.104(b) of the Commission's regulations (18 CFR 274.104(b) (1982)). The 45-day Commission review period was tolled until a response was received (18 CFR 275.202(a)). The response was received on October 20, 1983.

Discussion

Section 108(b) of the NGPA defines a stripper natural gas well as, *inter alia*, "a *well* whose production during the preceding 90-day production period, . . . produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per *production day* during such period; and (B) during such period such well produced at its maximum efficient rate of flow, determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas" (emphasis added).

A *"production day"* is defined in 18 CFR 271.803(a) as, *inter alia*, *"any day during which natural gas is produced"* (emphasis added). In 18 CFR 271.803(e) it is stated that "[n]atural gas is produced . . . on any day during which there is measurable production of natural gas *from the well."* (emphasis added) For purposes of determining the rate of production from a well for which a stripper well determination is sought, 18 CFR 271.804(a) provides "(1) the total volume of natural gas produced *from the well* shall constitute its daily production regardless of whether the well is completed in more than one interval or the production is separately metered from separate intervals" (emphasis added).

In response to the Staff's tolling letter, BLM informed the staff of its method of determination for a stripper natural gas well. BLM divides the production from each separately metered interval or completion location by the number of days that completion location produced for the average production for each completion location. The average production from each completion location is then added to arrive at the average daily production for the 90-day period. Using BLM's method resulted in an average of more than 60 Mcf per production day during the 90-day production period and more than 70 Mcf per production day for the 12 month period.

BLM maintains that its method is used by the majority of the industry and is consistent with the Commission's regulations. BLM further states that it is not logical that an applicant can use the maximum number of producing days in one reservoir with low production to qualify a well that has another reservoir with high production and few production days.

El Paso Natural Gas Company (El Paso) also filed comments in this proceeding supportive of the BLM method. El Paso states that § 274.206(a)(9) of the Commission's regulations, which requires applicants for initial stripper well determination to provide production records for each completion location of a multiple completion well, modifies the definitions of "production day" and "produced" in § 271.803(d) and (e) in such a manner as to require that such terms be applied to each completion location separately. El

[1] A "dual completion" is defined as "a completion of a well into two separate producing formations at different depths." H. Williams and C. Meyers, Manual on Oil and Gas Terms, (4th ed. 1976).

[2] 18 CFR 274.206(a)(9) requires that for purposes of initial qualification for a stripper well, "the applicant shall file if the well is a multiple completion, production records for each completion location . . . (i) For the 90-day production period on which the application is based; and (ii) for the 12 month period on which the maximum efficient rate of flow presumption is based if applicable."

Paso cites the need to identify specific producing days for each interval in a dually completed well when both completion locations are shut in for different periods. They state that such information cannot be made available without a burdensome change in their current procedures. Finally, El Paso believes that it is clearly inappropriate to utilize a producing day of one completion location as a producing day of the other completion location within the well for purposes of calculating the average daily producing rate for the well.

The Commission believes that BLM erred in its calculation of *"production days"* for the subject wells by referring to production days for separate completion locations. Section 108 clearly focuses qualification on total production from a well. The NGPA differentiates between the term *"completion location"* as used for example in sections 102(c)(1)(B)(ii) and 107(c)(1) of the NGPA, and the term "well" as used in section 108 of the NGPA. The term *"completion location"* is used to refer to natural gas being produced from a specific subsurface location. However, Congress used the term *"well"* in section 108 of the NGPA to mean the total volume of natural gas produced from a well regardless of whether a well is completed in more than one completion location or production is separately metered. When the total production from the well is divided by the number of production days calculated on the basis of the well as a whole, in accordance with the Commission's regulations, the average production for the subject wells does not exceed 60 Mcf per production day for the 90-day production period. In other words, as long as one completion location was open to the line and capable of producing gas, it will be considered a *"production day"* regardless of the fact that other completion locations in that well may have been shut in on that day. Average production rates do not have to be calculated on the basis of individual completions in the well.

Using the Commission's method for the Mexico Federal "M" No. 1 Well, the average daily production for the 90-day period is 60 Mcf and for the Jicarilla "C" No. 10 well, the average daily production for the 90-day production period is 54 Mcf per production day. Using the same method for the 12-month period, the Mexico Federal "M" No. 1 Well yielded an average of 62 Mcf per production day, and the Jicarilla "C" No. 10 well yielded an average of 58 Mcf per production day.

The Commission finds:

Accordingly, the Commission hereby makes a preliminary finding that BLM's negative determinations concerning the subject wells are not supported by substantial evidence in the record, since the referenced wells produced at an average below 60 Mcf per production day when the computations are made in accordance with the Commission's regulations.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32457 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-441-000]

University Cogeneration Partners, Ltd., 1983-I; Modification to an Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 2, 1983.

On October 31, 1983, a notice was published in the **Federal Register** (48 FR 50157) regarding an application filed by University Energy for qualifying status as a cogeneration facility pursuant to § 292.207 of the Commission's rules. On November 21, 1983, a modification was filed, changing the applicant's name from University Energy to University Cogeneration Partners, Ltd., 1983-I. All other characteristics of the facility remain unchanged.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32458 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-368-000]

Upper Peninsula Power Co.; Refund Report

December 2, 1983.

Take notice that on November 16, 1983, Upper Peninsula Power Company ("Upper Peninsula") submitted for filing its Refund Report.

Upper Peninsula states that the Refund Report shows the monthly billing determinants, revenue receipt dates and revenues under the prior, suspended and settlement rates for each of its wholesale customers.

A copy of this report has been sent to the Michigan Public Service Commission.

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 December 19, 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. 83-32459 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF84-5041-000]

Western Area Power Administration; Filing

December 1, 1983.

Take notice that on November 21, 1983, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy, by Rule Order No. WAPA-22, did confirm and approve, on an interim basis, effective on the first day of the first full billing period beginning on or after December 15, 1983, new rate schedules PD-F2 (Firm Power Service), PD-FT2 (Firm Transmission Service), PD-NFT2 (Nonfirm Transmission Service), and PD-FCT2 (Transmission Service of Colorado River Storage Project Power and Energy) for the Western Area Power Administration's (Western) Parker-Davis Project.

Western states that the new rates will be in effect pending the Commission's approval, or substitute rates, on a final basis, or until they are superseded.

Western requests that the Commission confirm and approve these new rates on a final basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 15, 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. All persons 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. 83-32460 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-2-003]

Wisconsin Electric Power Co.; Refund Report

December 2, 1983.

Take notice that on November 14, 1983, Wisconsin Electric Power Company ("Wisconsin Electric") submitted for filing its Refund Report in compliance with an October 4, 1983, Commission Letter Order approving the Partial Settlement Agreement.

Wisconsin Electric states that all revenue amounts collected under the suspended rates in excess of the settlement rates were refunded to each customer on October 27, 1983, pursuant to Article I of the Settlement Agreement.

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 December 19, 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. 83-32461 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-13-000 (PGA84-1)]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

November 30, 1983.

Taken notice that on November 25, 1983, Gas Gathering Corporation (GGC) tendered for filing proposed changes in its FERC Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation's (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would increase the rate charged Transco by 44.52704 cents per MMBtu from those rates presently in effect. The proposed changes are proposed to be made effective January 1, 1984. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecovered Purchased Gas Cost as of September 30, 1983, through a six-month surcharge.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 12, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32380 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-75-002]

Northwest Central Pipeline Corp.; Further Revised Notice of Proposed Rate Changes

November 30, 1983.

Take notice that on November 23, 1983, Northwest Central Pipeline Corporation (Northwest Central) tendered for filing Substitute Second Revised Sheet No. 6 (issued November 22, 1983) to its FERC Gas Tariff, Original Volume No. 1.

Northwest Central states that the purpose of this substitute sheet is to reflect certain adjustments or revisions as required by the Commission's order issued May 20, 1983, and the Director's letter order of November 7, 1983, in Docket No. RP83-75-000.

Northwest Central states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP83-75-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 12, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32381 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-95-002]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

November 30, 1983.

Take notice that Northwest Central Pipeline Corporation (Northwest Central) on November 23, 1983, tendered for filing Second Substitute Second Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1. Northwest Central states that pursuant to Article 23 of the General Terms and Conditions of such Tariff it proposes to increase its rates effective December 23, 1983, to reflect an increase in the GRI funding unit from 0.72 cents to 1.25 cents for the year 1984 as approved by the Commission's Opinion No. 195, issued October 28, 1983.

Northwest Central states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP82-114-000, RP83-75-000, and RP84-14-000.

Any person desiring to be heard to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 or 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on before December 12, 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 proceedings. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32382 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER84-9-000 and ER84-10-000]

Philadelphia Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Denying Motion To Reject, Consolidating Dockets, and Establishing Hearing and Price Squeeze Procedures

Issued: December 1, 1983.

On October 5, 1983, as corrected by letter dated November 14, 1983,[1] Philadelphia Electric Company (PE) tendered for filing increased rates for service to its wholly-owned subsidiary Conowingo Power Company (Conowingo) (Docket No. ER84-9-000).[2] The proposed rates would increase jurisdictional revenues by approximately $4.3 million (15%), based on a calendar year 1984 test period. PE concurrently proposed increased rates for service to the Borough of Lansdale, Pennsylvania (Lansdale) (ER84-10-000). These rates would increase test period revenues by approximately $890,000 (12.5%). PE requests that the revised rates to Conowingo and Lansdale become effective on December 4, 1983.

Notices of PE's filings were published in the **Federal Register**,[3] with comments due on or before October 27, 1983. The Public Service Commission of Maryland filed a timely notice of intervention in both dockets. While the Maryland Commission states that the proposed rate revision would ultimately have an extraordinary economic impact on Conowingo's retail customers, it has raised no specific issues. The Maryland People's Counsel also filed a timely intervention which raises no substantive issues but which requests a maximum suspension of the proposed rates.

On October 27, 1983, Lansdale filed a protest, a motion to intervene, a request for a five month suspension, and a motion to reject the filed rates. Lansdale asserts that PE's two-step block demand rate to Lansdale should be rejected because PE has not shown that its rate design is cost justified. In support of its alternative request for a five month suspension, Lansdale raises several cost of service issues including: Rate of return; claimed cash working capital allowance; increased depreciation rates; Period II inflation adjustments; decommissioning expenses; and the prudence of PE's generating capacity decisions. Lansdale also alleges that the proposed rate may create a price squeeze.

On November 14, 1983, PE filed a response to Lansdale's pleading. PE does not oppose the request to intervene, but does object to Lansdale's request for affirmative relief. The company opposes the motion to reject, contending that its two-step block rate design merely continues that which is now in effect for service to Lansdale as agreed upon in a settlement. PE further addresses the cost of service issues identified by Lansdale and contends that no suspension is warranted. Finally, PE asserts that the price squeeze issue raised by Lansdale may not be considered in this proceeding, given an earlier judicial finding that PE did not possess monopoly power. *Borough of Lansdale* v. *Philadelphia Electric Co.*, 692 F.2d 307 (3d Cir. 1982).

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely filings serve to make the Maryland Commission, the Maryland People's Counsel, and Lansdale parties to this proceeding.

In support of its motion to reject, Lansdale argues that the Commission previously rejected a block demand rate similar to that now proposed by PE on the grounds that the rate design had not been shown to reflect cost incurrence.[4] We note, however, that in two subsequent rate filings,[5] PE has designed its rates by incorporating the two-step block demand rate; given settlements in those dockets, the Commission has not since addressed the rate design issue. In view of these intevening filings and the fact that the earlier rate decision was predicated on the record then before the Commission, we are not inclined to grant summary disposition at this time. The issue raised by Lansdale may be pursued during the evidentiary hearing which we shall order below.

Our preliminary examination of PE's proposed rates indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and we shall suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable and may yield substantially excessive revenues, as defined in *West Texas*, we will generally suspend the rates for a period of five months. Because our preliminary review suggests that PE's proposed rates may be substantially excessive, we shall suspend the rates for five months, to become effective on May 5, 1984, subject to refund.

Inasmuch as the rates proposed in Docket Nos. ER84-9-000 and ER84-10-000 are based upon the same cost of service and test period, we find that common questions of law and fact may be presented. Thus, we shall consolidate these dockets for purposes of hearing and decision.

Finally, in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79-339, 8 FERC ¶ 61,131 (1970), we shall phase the price squeeze issue raised by Lansdale.[6]

The Commission orders:

(A) Lansdale's motion to reject PE's rates is hereby denied.

(B) PE's proposed rates, as revised in its November 14, 1983 submittal, are hereby accepted for filing and suspended for five months, to become effective on May 5, 1984, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of PE's rates.

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[1] In its November 14 letter, the company acknowledged an error in its tax calculations resulting from the addition rather than subtraction of the amortizable portion of investment tax credits. Because correction of this error results in a decrease in the proposed revenues, the company has submitted lower substitute rates. We note that the erroneous tax calculation would have resulted in summary disposition if not corrected, but would not have caused the Commission to reject the filing or issue a deficiency letter. For purposes of this order, references to the company's proposed rates refer to the reduced rates submitted on November 14, 1983.

[2] *See* Attachment for rate schedule designations.

[3] 48 FR 48497 (1983).

[4] *Philadelphia Electric Company*, Initial Decision, Docket No. ER78-409, 10 FERC ¶ 63,034 at 65,364-365, *affirmed*, 13 FERC ¶ 61,057 (1980).

[5] Docket Nos. ER80-558-000, 17 FERC ¶ 62,514 (1981), and ER82-294-000, 21 FERC ¶ 61,433 (1982).

[6] While PE challenges Lansdale's right to raise the price squeeze issue given the findings in an earlier antitrust proceeding, we need not reach that question at this early stage of the proceeding.

(D) Docket Nos. ER84-9-000 and ER84-10-000 are hereby consolidated for purposes of hearing and decision.

(E) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

PHILADELPHIA ELECTRIC COMPANY, DOCKET NOS. ER84-9-000 AND ER84-10-000

Rate Schedule Designations

Designation	Other party
(1) Philadelphia Electric Company, Supplement No. 11 to Rate Schedule FPC No. 36 (Supersedes Supplement No. 10).	Conowingo Power Company, Susquehanna Electric Company.
(2) Supplement No. 10 to Rate Schedule FPC No. 44 (Supersedes Supplement No. 9).	Borough of Lansdale.
(3) Susquehanna Electric Company, Supplement No. 11 to Rate Schedule FPC No. 2 (Supersedes Supplement No. 10) (Concurs in (1) above).	Conowingo Power Company, Philadelphia Electric Company (Certificate of Concurrence).

[FR Doc. 83-32383 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-26-000]

Sabine Pipe Line Co.; Proposed Change In FERC Gas Tariff

November 30, 1983.

Take notice that on November 25, 1983, Sabine Pipe Line Company (Sabine) tendered for filing proposed changes in its FERC Gas Tariff, Volume No. 1. The proposed changes provide for adoption of an initial Rate Schedule T-3 for general transportation services to be performed including transportation services authorized pursuant to subpart F of Section 157 of the Commission's Regulations. Sabine further requests waiver of the Commission's notice requirements to permit the proposed changes to become effective on December 1, 1983.

Copies of the filing are being served upon the company's jurisdictional customers and the Commissioner of Conservation for the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 12, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32384 Filed 12-5-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SWH-FRL 2482-7]

Supplemental Procedures for Establishing Start Dates of Comment Period for Activities Subject to Executive Order 12372

On September 29, 1983 (48 FR 44643), EPA published a notice of procedures to establish start dates for comment periods under Executive Order 12372 and 40 CFR Part 29 (Intergovernmental Review). The Executive Order and regulation require EPA to notify a State process or directly affected governmental entities of activities proposed for Federal funding in their jurisdictions. (A State process is the framework under which State and local officials carry out Intergovernmental Review activities under the Executive Order; see 48 FR 29288 for other definitions and background.) The notice must establish the start date for a 60-day official comment period and identify an EPA contact for additional information.

The EPA has determined that the documents to be reviewed under the intergovernmental review process for activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), will differ from those reviewed for other EPA programs. The Hazardous Substance Response Trust Fund (CFDA No. 66.802) is the CERCLA program subject to Executive Order 12372. The major components of this program are the remedial investigation/feasibility study, which constitute the first phase, and remedial design/remedial action, which constitute the second phase. This notice explains the procedures to be followed for the CERCLA programs.

Procedures

I. Transition From A-95 Review System To E.O. 12372 System

Any proposed funding on which A-95 review was initiated prior to October 1, 1983, will continue under that process.

II. Where a State Process Exists and Incudes the Cercla Program or Activity Under Consideration

A. Remedial Investigation/Feasibility Study (RI/FS). The 60-day comment period on the proposed funding for a RI/FS will begin 5 days after the date that the appropriate State pollution control agency or EPA Regional Office sends a letter to the State process explaining the proposed action. The letter will give the name and location of the site, the site's rank on the National Priorities List, the nature of the problem at the site, a description of the activities to be undertaken under the RI/FS, the estimated cost of the RI/FS, the date on which the proposed RI/FS would begin, an estimate of when the RI/FS is expected to be completed, and the State and/or EPA Project Officers to be contacted for additional information. If, in this or any of the following sections, the official application involves any substantial change from the information provided for intergovernmental review, then EPA will provide another 60-day comment period for intergovernmental review of the official application. When the State has lead responsibility for the

RI/FS, the appropriate State pollution control agency will send the letter to the State process and to the appropriate EPA Regional Office (see 48 FR 44643, September 29, 1983). When EPA has lead responsibility for the RI/FS, the EPA Regional Office will coordinate with the appropriate State pollution control agency and will send the letter to the State process.

B. Remedial Design/Remedial Action (RD/RA). The 60-day comment period on the proposed funding for a RD/RA will begin 5 days after the date the appropriate State pollution control agency or EPA Regional Office sends the feasibility study containing the proposed remedy to the State process. The 60-day comment period for the State process generally will run concurrently with the public's comment period on the feasibility study and the proposed remedy. As in the case of RI/FS, when the state has the lead responsibility for the RD/RA, the State pollution control agency will send the document to the State process and will send a copy of the transmittal letter to EPA. When EPA has the lead responsibility for the RD/RA, the EPA Regional Office will coordinate with the appropriate State pollution control agency and will send the document to the State process.

III. Where a State Process Does Not Exist or Does Not Include the EPA Program or Activity Under Consideration

A. *Remedial Investigation/Feasibility Study.* The 60-day comment period on the proposed funding for a RI/FS will begin 5 days after the date that the appropriate State pollution control agency or EPA Regional Office sends a letter to officials of directly affected governmental entities (i.e., the Governor of the State, officials of directly affected areawide and Regional planning agencies and officials of directly affected local governments). The letter will contain the same information listed in Section II.A. above. When the state has the lead responsibility for the RI/FS, the appropriate State Pollution control agency will send the letter to the governmental entities and will send a copy to the appropriate EPA Regional Office. When EPA has the lead responsibility for the RI/FS, the EPA Regional Office will coordinate with the State pollution control agency and will send the letter to the directly affected governmental entities.

B. Remedial Design/Remedial Action (RD/RA). The 60-day comment period on the proposed funding for a RD/RA will begin 5 days after the date that the appropriate State pollution control agency or EPA Regional Office sends the feasibility study containing the proposed remedy to the directly affected governmental entities (see III.A.). The 60-day comment period generally will run concurrently with the public's comment period on the feasibility study and the proposed remedy. As in the Case of the RI/FS, when the state has the lead responsibility for the RD/RA, the State pollution control agency will send the feasibility study to the governmental entities and will send a copy of the transmittal letter to EPA. When EPA has the lead responsibility for the RD/RA, EPA will coordinate with the State pollution control agency and will send the document to the governmental entities.

FOR FURTHER INFORMATION CONTACT: For further information on these procedures, contact Cristina N. Griffin, Office of Emergency and Remedial Response, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The telephone number is: (202) 382-2443.

Dated: November 29, 1983.

Lee M. Thomas.

Assistant Administrator, Office of Solid Waste and Emergency Response.

EPA SUPERFUND PROCEDURES FOR INITIATING COMMENT PERIOD

	State lead responsibility	EPA lead responsibility
State process exists and activity covered:		
RI/FS	State pollution control agency (SPCA) sends notification letter to State process. State sends copy of letter to EPA and 60-day comment period begins 5 days after the State sends the letter.	EPA Regional Office sends notification letter to State process and 60-day comment period begins 5 days after EPA sends the letter.
RD/RA	SPCA sends the feasibility study containing the proposed remedy to the State process. SPCA sends copy of transmittal notice to EPA and 60-day comment period begins 5 days after the State sends the feasibility study.	EPA Regional Office sends the feasibility study containing the proposed remedy to the State process and 60-day comment period begins 5 days after EPA sends the feasibility study.
No State process or activity is not covered:		
RI/FS	SPCA sends notification letter to the "governmental entities" (see III A). SPCA sends copy of letter to EPA and 60-day comment period begins 5 days after the state sends the letter.	EPA Regional Office consults with SPCA and sends notification letter to the "governmental entities" and 60-day comment period begins 5 days after EPA sends the letter.
RD/RA	SPCA sends the feasibility study containing the proposed remedy to the "governmental entities". SPCA sends copy of transmittal notice to EPA and 60-day comment period begins 5 days after the state sends the feasibility study.	EPA Regional Office consults with SPCA and sends the feasibility study containing the proposed remedy to the "governmental entities" and 60-day comment period begins 5 days after EPA sends the feasibility study.

[FR Doc. 83-32437 Filed 12-5-83; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Requests for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act [44 U.S.C. Chapter 35], agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATE: Comments must be received on or before January 20, 1984. If you anticipate commenting on a report form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Liaison Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Liaison Officer. Comments on the item listed should be submitted to the Agency Liaison Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Liaison Officer: Gary G. Papritz, Administrative Management Services, Room 281, 2401 E Street, NW., Washington, D.C. 20507; Telephone (202) 634-6990.

OMB REVIEWER: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-6880.

Type of Request: Extension (No-change)
Title: Paralegal Program Information Form
Form Number: EEOC Form 435
Frequency of Report: Annual
Type of Respondents: Schools having paralegal programs as identified by the American Bar Association
Responses: 217
Reporting Hours: 109
Federal Cost: $2,485.00
Number of Forms: 1

Abstract-Need/Uses: The form serves as EEOC's contact with the Nation's schools presenting paralegal programs. It is used on a voluntary basis by those schools interested in having their students participate in a volunteer services program with EEOC for academic credit. Work assignments can be designed to relate more directly to academic needs.

Dated: November 23, 1983.
For the Commission.
Clarence Thomas,
Chairman, Equal Employment Opportunity Commission.

[FR Doc. 83-32447 Filed 12-05-83; 8:45 am]
BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION

New FM Stations; Applications for Consolidated Hearing; Cleveland Broadcasting Corp., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Cleveland Broadcasting Corporation; Cleveland, WI.	BPH-830131AC	83-1260
B. Dan Emil Haluska and Paula Louise Haluska, tenants by the entirety; Cleveland, WI.	BPH-830520AT	83-1261

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-32378 Filed 12-5-83; 8:45 am]
BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Lee Broadcasting Company Inc. and North Georgia Communications

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Lee Broadcasting Company, Inc.; Ellijay, GA.	BPH-820902AM	83-1256
B. Denise Michelle d/b/a North Georgia Communications; Ellijay, GA.	BPH-830215AE	83-1257

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the reference sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-32379 Filed 12-5-83; 8:45 am]
BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Larry W. Livesay, and Graham County Broadcasting Co.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Larry W. Livesay; Robbinsville, NC.	BPH-830224AB	83-1258
B. Betti P. Hildreth d/b/a Graham County Broadcasting Company; Robbinsville, NC.	BPH-830323AB	83-1259

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text

of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issues

1. If a final environmental impact statement is issued with respect to A (Livesay) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to contruct and operate as proposed.

[FR Doc. 83-32377 Filed 12-5-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Home Mortgage Disclosure Data

AGENCY: Federal Financial Institutions Examination Council (FFIEC).

ACTION: Notice of availability of information.

SUMMARY: The FFIEC announces the availability of an updated directory listing the central depositories for Home Mortgage Disclosure Act (HMDA) data in each Standard Metropolitan Statistical Area (SMSA). Also, the federal regulators are forwarding the 1982 disclosure statements of individual financial institutions to the central depositories. Aggregate tables of HMDA data for calendar year 1982 will be forwarded by the Council to the central depositories in December.

DATE: Directory depository assignments are as of November 10, 1983. Aggregate data are for calendar year 1982.

ADDRESS: Federal Financial Institutions Examination Council, 490 L'Enfant Plaza, SW, Eighth Floor, Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: L. Ann Jones, Federal Financial Institutions Examination Council, 490 L'Enfant Plaza, SW, Eighth Floor, Washington, DC 20219, (202) 287–4208. All requests for purchase of data must be in writing and must include payment.

SUPPLEMENTARY INFORMATION: Section 340(f) of the Housing and Community Development Act of 1980 (Pub. L. 96–399; October 8, 1980; 94 Stat. 1614–1680) directs the Federal Financial Institutions Examination Council (FFIEC) to establish a central depository for Home Mortgage Disclosure Act (HMDA) data in each Standard Metropolitan Statistical Area (SMSA) so that interested parties may review the disclosure statements financial institutions are required to report to their federal financial regulators under HMDA. The FFIEC has published an updated directory that lists the central depositories that have been established to date in 316 of the 324 SMSAs. (Redefinition by the Office of Management and Budget of the geographic term SMSA into consolidated metropolitan statistical areas, effective June 1983, is not reflected in this directory).

Section 310(a) directs the FFIEC to compile each year, for each SMSA, aggregate data by census tract for all depository institutions which are required to report to their federal financial regulators under HDMA. The FFIEC is also directed to produce tables indicating aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

The federal regulators are now in the process of forwarding the 1982 disclosure statements to the central depositories. The aggregate tables with data for calendar year 1982 are now being prepared and will be forwarded to the central depositories in December.

The data are available for public use at the designated central depository in each SMSA. These data are also available from the FFIEC for purchase in various formats, as listed below:

Type of request	Cost (printout)[1]
All Tables	$135
Individual Agency Report:	
Federal Reserve Board	70
Federal Deposit Insurance Corporation	90
Comptroller of the Currency	80
Federal Home Loan Bank Board	110
National Credit Union Administration	60
Individual SMSA	25
Individual Respondent Report	25
Entire Data File	225,[2]
Table I for every SMSA	170,[2]
Directory of Depositories	[3]

[1] Add $25 for requests for data in magnetic tape form. Data on microfiche will add an additional $.32 per 240 pages.
[2] Available only in magnetic tape form.
[3] No charge.

Dated: November 29, 1983.

Robert J. Lawrence,

Executive Secretary, FFIEC.

[FR Doc. 83-32441 Filed 12-5-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2192]

A. B. International Forwarders, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Martime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

By bond issued in favor of A. B. International Forwarders, Inc., 5316 Imperial Way, Los Angeles, CA 90045 was cancelled effective November 20, 1983.

By letter dated November 3, 1983, A. B. International Forwarders, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2192 would be automatically revoked unless a valid surety bond was filed with the Commission.

A. B. International Forwarders, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2192 be and is hereby revoked effective November 20, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2192 issued to A. B. International Forwarders, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon A. B. International Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-32368 Filed 12-5-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants; Ben & Brothers Forwarding Corporation

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Ben & Brothers Forwarding Corporation, 701 W. Manchester Blvd., Suite 203, Inglewood, CA 90301. Officers: Ben Bumsun Lee, President, Young S. Yoo, Vice President, Sung Soo Hong, Secretary/Treasurer.

C.D.M. Transportation Services, Inc., 9817 South Aderdeen Street, Chicago, IL 60643. Officer: Carl D. McFerren, President.

Target International Shipping, Inc., 2727 Ocean Parkway, Brooklyn, NY 11235. Officers: Dominic Peters, President/Treasurer, Shirley Mitchell, Secretary.

By the Federal Maritime Commission.

Dated: December 1, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-32366 Filed 12-5-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2477]

MDR Enterprises, Inc; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of MDR Enterprises, Inc., 7701 Pacific, Suite 7, Omaha, NE 68114 was cancelled effective November 19, 1983.

By letter dated November 3, 1983, MDR Enterprises, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2477 would be automatically revoked unless a valid surety bond was filed with the Commission.

MDR Enterprises, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2477 be and is hereby revoked effective November 19, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2477 issued to MDR Enterprises, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon MDR Enterprises, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-32367 Filed 12-5-83; 8:45 am]

BILLING CODE 6730-01-M

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.: 17-45.

Title: Far East Conference.

Parties:

Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Maritime Company of the Philippines
Mitsui O.S.K. Lines, Ltd.
A. P. Moller-Maersk Line
Nippon Yusen Kaisha
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 17-45 would amend the basic agreement (1) by adding to the authority of the Conference the ability to make interior point intermodal rates for cargo existing via Atlantic and Gulf Ports and (2) by providing the right of independent action with respect to all Conference rates.

Filing Party: Gerald J. Flynn, Chairman, Far East Conference, 40 Rector Street, New York, New York 10006.

Agreement No.: 10105-8.

Title: South Atlantic and Gulf-El Salvador/Guatemala/Honduras Rate Agreement.

Parties: Concorde/Nopal Line, Coordinated Caribbean Transport, Sea-Land Service, Inc.

Synopsis: Agreement No. 10105-8 would permit the parties to perform alternate port service.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

By Order of the Federal Maritime Commission.

Dated: December 1, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-32504 Filed 12-5-83; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-4149]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T-4149 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, (42 U.S.C. 4321 *et seq.*), and that preparation of an environmental impact statement is not required.

The Agreement, between the City of Los Angeles (LA) and Maritime Services International (MSI), provides for MSI's use of approximately 13.4 acres of terminal space in the post of Los Angeles for cargo handling. The Agreement and the premises will be subject to certain reservations including: utility rights-of-way; rights-of-way for streets, railroads and other means of transportation; and, the right of LA to occupy portions of MSI's premises to drill for oil.

The lease conditions in this Agreement comply with the California Evironmental Quality Act.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the Federal Register unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-32508 Filed 12-5-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Request for Public Comment

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for public comment on draft FY 1984 program announcement.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing this draft Fiscal Year 1984 program announcement/application solicitation for the Labor-Management Cooperation Program to inform the public and obtain public comments. The program is supported by federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations.

DATE: Comments are due on or before January 12, 1984.

ADDRESS: Send comments to: Peter L. Regner, Director, Labor-Management Grant Programs, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653-5320.

Labor-Management Cooperation Program Application Solicitation—FY 1984

A. Introduction

The following is the draft announcement for the Fiscal Year 1984 cycle of the Labor-Management Cooperation Program. These guidelines represent the forth year of efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was approved in October 1978.

The Act generally authorized FMCS to:

Provide assistance in the establishment and operation of plant, area, and industrywide labor and management committees which—

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

(B) Are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

The Act also prohibited FMCS from awarding any grants or contracts under the following three circumstances:

(1) No assistance can be given for plant labor-management committees unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement;

(2) No assistance can be given for an area or undustrywide labor-management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such a committee. However, employers whose employees are not represented by a labor organization may participate on such area or industrywide committees; and

(3) No assistance can be given to any committee which FMCS finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157) or the interference with collective bargaining in any plant or industry.

With respect to item (2) above, applicants for area or industrywide grants should offer committee memberships to every labor organization having a collective bargaining contract with any employer participating on the committee. Any labor organization so desiring may voluntarily elect not to participate on the Committee. Documentation of all this (i.e., the listing of each participating employer and corresponding labor organizations and written declinations by those labor organizations not electing to participate on the committee) should be included as part of the application.

The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual and the Employee Recognition Program booklet make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, areawide, industrywide, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section F.

B. Program Description

Objectives

The Labor Management Cooperation Act of 1978 identified the following seven general areas for which financial assistance would be appropriate:

(1) To improve communications between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor-management committees.

The primary objective of this program is to demonstrate the potential benefits that can be achieved through the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria and conform to the restrictions mentioned in Section A (Introduction). As discussed in the legislation, these committees may be found at either the plant, area, industry, or public sector levels. A plant committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor unions producing a common

product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY84, competition will be open to plant, area, private industry, and public sector committees. Individual plant committees will only be funded under the Employee Recognition Program.

The Employee Recognition Program (ERP) is a new research/demonstration effort FMCS is testing based upon a model developed by Diamond International Corporation. The program utilizes a labor-management committee framework to develop and implement a mechanism to recognize employees for positive work-related efforts while dealing with issues of mutual labor-management concerns. A more complete description of the program can be found in the ERP booklet which will be available upon request from the Office of Labor-Management Grant Programs. Applicants for ERP grants should follow the same guidelines as applicants for area, industry, and public sector committee grants, except for those additions/exclusions noted on the following pages.

Required Program Elements

1. *Problem Statement.*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problems using as much relevant data as possible and discuss the full range of impacts these problems could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problems. This section basically discusses WHY the effort is needed.

2. *Results or Benefits Expected.*—By using specific goals and objectives, the application must discuss in detail WHAT the labor-management committee as a demonstration effort will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one overall goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach.*—This section of the application specifies HOW the goals and objectives will be accomplished. For ERP applicants, this section discusses how the ERP will function in the plant(s) setting. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all proposed members of the labor-management committee. Be sure to identify the chairperson(s) and the role he/she will play. The application should also offer a rationale for the selection of the committee members (e.g. members represent 70% of the area or plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of the past efforts and accomplishments and how they would integrate with the proposed future expanded effort.

4. *Major Milestones.*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for WHEN they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant. The chart should identify months as "month 1, 2" etc., rather than by name of month as the grant start date will not be determined until all applications are reviewed. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS. This section is waived for ERP applicants. However, the ERP effort must be fully operational within 90 days of the grant start date.

5. *Evaluation.*—Applicants, except those applying under the ERP category, must contract for an external evaluation to assess the project's success in meeting its goals and objectives. Up to $7,000 may be expended for an outside evaluation. in addition, an evaluation plan must be discussed in this section, and an evaluator must be hired within 90 days of of the grant start date.

The evaluation plan should briefly discuss what basic questions or issues the proposed evaluator would examine and what baseline data the committee staff would already have/or will gather for the evaluator. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

FMCS will hire an evaluator for all ERP grantees. ERP applicants must submit a statement assuring FMCS that its evaluator will have full access to all program-related data as well as full access to employees for the administration of pre and post program attitude surveys. in addition, applicants must agree to hire new part-tme record keepers (using grant funds) to collect operational and evaluation data.

ERP applicants are required to provide the following data for their most recent annual reporting period as part of the application:

(1) Absenteeism rate.

(2) Accident rate (and/or work days lost to accidents).

(3) Scrap or quality error rate.

(4) Number of grievances.

(5) Number of disciplinary actions.

(6) Productivity level.

This data, as well as any other that applicants may choose to include, will be used as baseline data for evaluation purposes. Changes in the numbers/rates of the above data will be reported to FMCS and the evaluator quarterly to determine what impacts, if any, the ERP manifests on the above activities.

6. *Letters of Commitment.*—Applications must include letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and are willing to personally attend scheduled committee meetings. This requirement is waived for ERP applicants.

7. *Other Requirements.*—Applicants are also responsible for the following:

(a) The submission of data indicating how many employees will be covered or represented through the labor management committee;

(b) From existing committees, a copy of the existing staffing levels and breakout of annual operating costs;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibilty of the approach proposed to attain the goals and objective of the project and the perceived likelihood of accomplishing the intended project results. For ERP applicants, this section must also demonstrate a general knowledge of the ERP model.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application (waived for ERP applicants).

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates (waived for ERP applicants).

(6) For the ERP applicants, the thoroughness of data supplied under Section 5 of the Required Program Elements.

(7) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's fiscal feasibility vs. its goals and approach.

(8) The overall feasibility of the proposed project in light of all of the information presented for consideration and quality of the application; and,

(9) The cost value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, geographic location, and other qualities that enhance an applicant's value as a demonstration effort.

C. Eligibility

Eligible grantees include State and local units of government, private non-profit labor-management committees, or a labor or management entity on behalf of a committee that will be created throught the grant, and certain third party private non-profit entities on behalf of one or more committees to be created through the grant.

Third party private non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applicants from third-parties which do not directly support the creation of new or expanded committees will not be deemed eligible.

In the event two or more applications are received which compete under the same category from the same jurisdiction (e.g., two areawide applications from the same county), only the higher scoring application will be awarded (if both are ranked acceptable for funding and funds are available).

Applications for ERP grants must originate from and be co-signed by the appropriate plant (or company) official and appropriate local union official.

D. Allocations

FMCS has received an FY 84 appropriation of $1 million for the Labor-Management Cooperation Program. The funding will be distributed as follows:

—$250,000 will be allocated for the Employee Recognition Program, including $190,000 for competitive project grants, $15,000 for program development/training, and $45,000 for national program evaluation.

—$175,000 for private sector industry committee grants.

—$175,000 for public sector committee grants.

—$340,000 for areawide committee grants.

—$60,000 for partial continuation funding of eligible FY 82 grantees. Eligibility will be based upon the following: (a) Project grant dates had not expired as of November 7, 1983, (b) projects were not originally intended primarily as one-time efforts, and (c) projects are judged to have been successful in meeting their goals and objectives and other grant requirements.

FMCS reserves the right to reprogram up to 15 percent of the FY 84 appropriation among these categories at its discretion.

E. Dollar Range and Length of Grants and Continuation Policy

All ERP grant awards, whether the applications are for new or existing plant committees, will be for 24 months. This period specifically includes no more than three months for project start up and at least 21 months of project implementation. There will be no continuiation of funding for ERP grants.

For other applicants, awards to continue and expand existing labor-management committees (i.e., in existence at least 12 months prior to the submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget priod and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months at double the initial cash match ratio. The total project period will thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months at double the initial cash match ratio. The total project period will thus normally be no more than 36 months.

The dollar range of awards is as follows:

—Up to $50,000 in FMCS funds over 24 months for ERP applicants;

—Up to $75,000 in FMCS funds per annum for existing (non-ERP) committees;

—Up to $100,000 per 18-month period for new (non-ERP) committees.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

In FY84, applicants for new (non-ERP) labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants of existing (non-ERP) committees must provide at least 25 percent of the total allowable project costs. All matching funds must be in cash rather than in-kind goods or services. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by projects as "project income" may not be used for matching purposes.

For ERP grants, a formal cash match will not be required. However, the applicant must submit a statement assuring FMCS that funds will be made available to cover total costs to the company for all employee recognition awards that are earned under the program. For application purposes, this sum should be calculated at $50 per employee covered under the ERP.

It will also be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not be used to supplant private or local/state government funds previously made available for these purposes. Also, under no circumstances will management staff or employees participating on a labor-management committee be paid or otherwise compensated out of grant funds for time spent at committee meetings or training sessions.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications must be postmarked no later than May 1, 1984. No applications or supplementary materials can be accepted after the deadlne. An original application, containing numbered pages, plus three copies should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW, Washington, DC 20427.

After the deadline has passed, all eligible applications will be reviewed and scored initially by an FMCS Grant Review Board. The Director, Labor-Management Grant Programs, will finalize the scoring and place the application in one of the following three categories: (a) unacceptable for funding, (b) potentially acceptable for funding but funds are unavailable, and (c) recommended for funding.

All FY 84 grant applicants will be notified of results, and all grant awards will be made, prior to September 30, 1984. Applications submitted after the deadline dates or that fail to adhere to eligibility or other major requirements will be administratively rejected prior to the convening of the Grant Review Board.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained by contacting Peter L. Regner, Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW, Washington, DC 20427, or calling 202/653-5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 83-32401 Filed 12-5-83; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

The Colonial BancGroup, Inc., et al., Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered 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 fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to acquire 100 percent of the voting shares or assets of The Bank of Huntsville, Huntsville, Alabama, and Citizens National Bank of Opp, Opp, Alabama. Comments on this application must be received not later than December 28, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Merchants Bankcorp, Inc.*, Aurora, Illinois; to acquire 100 percent of the voting shares or assets of First American Bank of Aurora, Aurora, Illinois. Comments on this application must be received not later than December 30, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *NCNB Corporation*, Charlotte, North Carolina; to acquire 100 percent of the voting shares or assets of Ellis Banking Corporation, Bradenton, Florida. 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 December 30, 1983.

Board of Governors of the Federal Reserve System, November 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-32405 Filed 12-5-83; 8:45 am]

BILLING CODE 6210-01-M

Farmers & Merchants Bancshares, Inc.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bnak. 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, indentifying 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 Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Farmers & Merchants Bancshares, Inc.*, Adel, Georgia; to become a bank holding company by acquiring 84.45 percent of the voting shares of The Farmers & Merchants Bank, Adel, Georgia. Comments on this application must be received not later than December 28, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 203 South LaSalle Street, Chicago, Illinos 60690:

1. *Central Bancorp, Inc.*, Plainfield, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Danville, Danville, Indiana. Comments on this application must be received not later than December 30, 1983.

2. *Robanco Financial Corp.*, Rochester, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Rochester, Rochester, Indiana. Comments on this application must be received not later than December 23, 1983.

C. **Federal Reserve Bank of St. Louis**, (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis Missouri 63166:

1. *South Central Illinois Bancorp.*, Effingham, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The First National Bank of Effingham, Effingham, Illinois. Comments on this application must be received not later than December 30, 1983.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hazen Bancorporation, Inc.*, Hazen, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Union State Bank of Hazen, Hazen,North Dakota. Comments on this application must be received not later than December 30, 1983.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lingle Valley Banc-Shares*, Lingle, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Lingle State Bank, Lingle, Wyoming. Comments on this application must be received not later than December 30, 1983.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *NCB Inc.*, Englewood, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Denver, Denver, Colorado. Comments on this application must be received not later than December 28, 1983.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Alpine, Inc.*, Alpine, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Alpine, Apline, Texas. Comments on this application must be received not later than December 30, 1983.

H. **Board of Governors of the Federal Reserves system** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Handi-Bancshares, Inc.*, Salina, Kansas; to become a bank holding company by acquiring at least 95 percent of the voting shares of First Handi-Bancshares, Inc., Salina, Kansas, parent of First National Bank and Trust Company, Salina, 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 December 30, 1983.

Board of Governors of the Federal Reserve System, November 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-32406 Filed 12-5-83; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 83-31432), published at page 52978 of the issue for Wednesday, November 23, 1983. In addition to relocating within Grand Forks, North Dakota, an office of Applicant's subsidiary, Norwest Financial North Dakota, Inc., Grand Forks, North Dakota, Applicant proposes to relocate two other offices of the subsidiary in two different states. Norwest Financial Illinois, Inc., Springfield, Illinois, will be relocated within Springfield, serving Springfield, Illinois, and neighboring communities. Norwest Financial New Jersey, Inc., Springfield, New Jersey, will be relocated within Springfield, serving Springfield, New Jersey and neighboring communities. The same activities will be conducted from these offices as were previously described for Norwest Financial North Dakota, Inc., Grand Forks, North Dakota, except that Norwest Financial New Jersey, Inc., will not engage in the sale of property and casualty insurance related to its extensions of credit. Comments on this proposal must be received not later than December 19, 1983.

Board of Governors of the Federal Reserve System, December 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-32404 Filed 12-5-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Northwestern Financial Corp., et al.; Proposed de novo Nonbank Activities by Bank Holding Companies

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 efficieny, 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 Richmond** (Lloyd W. Bostian, Jr., Vice President)

701 East Byrd Street, Richmond, Virginia 23261:

1. *Northwestern Financial Corporation*, North Wilkesboro, North Carolina (lending and servicing activities; South Carolina): To engage through its subsidiary, Northwestern Mortgage Corporation, in making, acquiring, and servicing first mortgage loans such as would be made by a mortgage banking company. These activities would be conducted from an office in Columbia, South Carolina, serving the counties of Richland and Lexington, South Carolina. Comments on this application must be received not later than December 21, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Northwest Arkansas Bancshares, Inc.*, Bentonville, Arkansas (lending and servicing activities; Arkansas): To acquire loans for its own account and to engage in mortgage brokering activities. Loans will be originated in Benton and Washington Counties, Arkansas. Mortgage brokering services will be offered to borrowers located in Benton, Washington, and Pulaski Counties, Arkansas. Comments on this application must be received not later than December 20, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California (leasing and servicing activities; United States): To engage through its subsidiary, Security Pacific Finance Corp., in leasing activities with respect to personal property and equipment and real property, in accordance with the Board's Regulation Y, and in servicing of extensions of credit. These activities would be conducted from an existing office of Security Pacific Finance Corp. in Pasadena, California, serving the United States. Comments on this application must be received not later than December 28, 1983.

Board of Governors of the Federal Reserve System, November 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-32407 Filed 12-5-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Advisory Committees; Notice of Renewal

The notice is published in accordance with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and advises of the renewal of the following GSA advisory committees for a two-year period, without change in basic purpose:

Advisory Committee on Preservation
General Services Administration Advisory Board

The Administrator of General Services has determined that renewal of these advisory committees is in the public interest in connection with the performance of duties imposed on the General Services Administration by law.

Dated: November 29, 1983.

Ray Kline,

Deputy Administrator.

[FR Doc. 83-32409 Filed 12-5-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 80P-0524, 80P-0525, 82N-0333]

Directly Set Cottage Cheese Deviating From Identity Standard; Modification of Temporary Permits for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the expiration dates of three temporary permits to market test directly set cottage cheese made with sodium bisulfate in interstate commerce are being modified so that the permits will expire on November 1, 1984. This modification will allow the permit holders to carry out their experimental market testing of the product.

DATE: The new expiration date is November 1, 1984.

FOR FURTHER INFORMATION CONTACT: E. T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: Temporary permits were issued under the provisions of 21 CFR 130.17 to Farm Fresh Dairy, Lawton, OK, Hillside-Meadow Dairy, Cleveland Heights, OH, and Safeway Milk Plant, Garland, TX, to market test directly set cottage cheese made with sodium bisulfate in interstate commerce. The permits were issued in order to facilitate market testing of foods that deviate from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notices of issuance of the temporary permits to Farm Fresh Dairy and Hillside-Meadow Dairy were published in the **Federal Register** of April 6, 1982 (47 FR 14782 and 14783). The expiration date of these permits would have been October 6, 1983. Notice of issuance of the temporary permit to Safeway Milk Plant was published in the **Federal Register** of November 23, 1982 (47 FR 52776). The expiration date of this permit would have been May 23, 1984. The temporary permits allow limited interstate market testing of directly set cottage cheese that deviates from the standard of identity for cottage cheese, which provides for directly set cottage cheese (21 CFR 133.128). The temporary permits provided for the use of directly set dry curd (defined in 21 CFR 133.129) that is manufactured with the aid of food-grade sodium bisulfate, an ingredient which is not currently permitted for use in directly set cottage cheese. The details of the terms and conditions under which the market testing will be conducted were discussed in the **Federal Register** notices of issuance of the permits.

The holders of the temporary permits requested that the permits be modified so that the expiration date of the three existing permits would be changed to November 1, 1984, because the firms have experienced delays in obtaining new container inventories, and therefore have not been able to begin market testing.

The agency concludes that due to the extenuating circumstances described above, changing the expiration date of the three existing permits is appropriate.

The agency further concludes that this modification of the expiration date is not an extension of time under the terms of § 130.17(i) because the permit holders have not been able to initiate market tests. Therefore, under the provisions of § 130.17(f), FDA is modifying the terms and conditions of the permits, such that the expiration date of each of the three temporary permits to market test directly set cottage cheese made with sodium bisulfate is November 1, 1984. All other conditions and terms of these temporary permits remain the same. Each of the permit holders will inform FDA, in writing, of the date the test product is introduced or caused to be introduced into interstate commerce.

Dated: November 25, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-32411 Filed 12-5-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0373]

Eagle Pass Plasma Donor Center, Inc.; Revocation of U.S. License No. 754

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation on October 26, 1983, of the establishment license (U.S. License No. 754) and product licenses issued to Eagle Pass Plasma Donor Center, Inc., for the manufacture of Source Plasma (Human) and Source Leukocytes. On October 12, 1983, the firm requested that its establishment license and product licenses be revoked and waived the opportunity for a hearing.

DATE: The revocation of the establishment and product licenses was effective on October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Falter, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment licenses (U.S. License No. 754) and product licenses issued to Eagle Pass Plassma Donor Center, Inc., for the manufacture of Source Plasma (Human) and Source Leukocytes. Eagle Pass Plasma Donor Center, Inc., is headquartered at 10707 North Broadway Extension, Oklahoma City, OK, with the plasmapheresis center located at Eagle Pass, TX.

FDA inspected Eagle Pass Plasma Donor Center, Inc., during January 25 through February 9, 1983, and found significant deviations from the requirements of 21 CFR Parts 600, 606, 610, and 640 of the biologics regulations. These deviations included, but were not limited to: (1) Failure to assure that physical examinations were performed at yearly intervals (21 CFR 640.63(b)); and (2) failure to assure that no more than the permissible amount of blood was collected from donors (21 CFR 640.65(b)(6)). On April 26, 1983, FDA issued a regulatory letter to the firm based on these deviations.

During a followup inspection of May 24 through June 22, 1983, FDA documented continuing and additional significant deviations, including: (1) Overbleeding of donors by frequency of donation (three times in a 7-day period) (21 CFR 640.65(b)(5)); and (2) inadequate donor suitability determinations, in that physical examinations of donors were not always performed adequately (21 CFR 640.63(a) and (b)). FDA further determined that, due to the nature of continuing, significant deviations relating to donor physical examinations, the responsible persons of the firm willfully disregarded the standards in the regulations and the specific terms of the firm's license designed to assure adequate donor suitability determinations and a continued healthy donor population.

As provided in 21 CFR 601.5(b), FDA issued a letter of September 16, 1983, that notified the licensee of FDA's intention to revoke U.S. License No. 754 and that set forth grounds for, and offered an opportunity for a hearing on, the proposed revocation. By letter of October 12, 1983, Eagle Pass Plasma Donor Center, Inc., requested, through its attorney, that its establishment and product licenses be revoked and waived the opportunity for a hearing. The agency granted the licensee's request. In a letter to the firm dated October 26, 1983, issued under 21 CFR 601.5(a), FDA revoked the establishment license (U.S. License No. 754) and product licenses of Eagle Pass Plasma Donor Center, Inc.

Accordingly, under 21 CFR 12.38 and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, National Center for Drugs and Biologics (21 CFR 5.68), the establishment license (U.S. License No. 754) and the product licenses issued to Eagle Pass Plasma Donor Center, Inc., for the manufacture of Source Plasma (Human) and Source Leukocytes were revoked, effective October 26, 1983. This notice is issued and published under 21 CFR 601.8

Dated: November 30, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-32412 Filed 12-5-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Notice of Meetings

Correction

In FR Doc. 83-30308 beginning on page 51533, in the issue of Wednesday, November 9, 1983 make the following correction:

On page 51534, column two, paragraph three, line three "11:30 p.m." should read "11:30 a.m."

BILLING CODE 1505-01-M

[Docket No. 83M-0236]

CTL, Inc.; Premarket Approval of CustomEyes™-38 C, CustomEyes™-38 L, CustomEyes™-38 S, and CTL-M (Polymacon) Tinted Hydrophilic Contact Lenses

Correction

In FR Doc. 83-30267 beginning on page 51535 in the issue of Wednesday, November 9, 1983, make the following corrections:

1. On page 51535, in the heading, line four "CRL-M" should read "CTL-M".

2. On the same page, column one, in the **SUMMARY**, line seven, "CRL-M" should read "CTL-M".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-83-1309; FR-1853]

Mutual Mortgage Insurance and Rehabilitation Loans; Changes to the Maximum Mortgage Limits for FHA-Insured Mortgages Covering Condominiums and One- to Four-Family Residences

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

ACTION: Notice.

SUMMARY: This Notice publishes a complete listing of areas eligible for "high-cost" mortgage limits under HUD's single family insuring authorities. The new listing includes (1) Changes made to the geographical boundaries of "high-cost" areas to make them consistent with the Office of Management and Budget's new definitions of the nation's metropolitan areas—Metropolitan Statistical Areas (MSA's) and Primary Metropolitan Statistical Areas (PMSA's); (2) the addition of three "high-cost" areas; and (3) increased mortgage limits for two existing "high-cost" areas. Mortgage limits are adjusted when the Secretary determines that middle- and moderate-income persons have limited housing opportunities due to high prevailing housing sales prices and, in the case of Alaska, Guam and Hawaii, to reflect higher prevailing construction costs.

EFFECTIVE DATE: December 6, 1983.

FOR FURTHER INFORMATION CONTACT:

John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone: (202) 755–6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701–1749) authorizes HUD/FHA to insure mortgages for single family residences. These include one- to four-family residences (see section 203) and one-family units in condominiums (see section 234(c)). The Housing and Community Development Act of 1980 amended the NHA to permit HUD to change the maximum mortgage amounts under these programs to reflect area differences in the cost of housing. Section 214 of the NHA authorizes additional "high-cost" limits for Alaska, Guam, and Hawaii.

Section 203 Programs. Section 203 of the NHA is the basic provision for the insurance of mortgates covering single family residences, and many other NHA sections adopt the provisions contained in section 203. Other sections to which this Notice applies include: section 203(k), loan insurance for rehabilitation of a structure used primarily as a residence; section 213, cooperative housing insurance; section 220, rehabilitation and neighborhood conservation housing; section 222, mortgage insurance for servicemen; section 240, financing purchases for homeowners of the fee simple title to property on which homes are located; section 244, coinsurance; section 245, graduated payment mortgages; and sections 809 and 810, armed services housing mortgage insurance.

Under section 203, the Secretary may increase maximum mortgage limits on an area-by-area basis if the Secretary deems it necessary after considering the extent to which moderate- and middle-income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 203 provides that the increased amount may not exceed the lesser of the following:

A. 133⅓ percent of $67,500 in the case of a one-family residence; 133⅓ percent of $76,000 in the case of a two-family residence; 133⅓ percent of $92,000 in the case of a three-family residence; or 133⅓ percent of $107,000 in the case of a four-family residence; or

B. 95 percent of the median one-family house price in the area, as determined by the Secretary for a one-family residence; 107 percent of that median for a two-family residence; 130 percent of that median for a three-family residence; or 150 percent of that median for a four-family residence.

Section 234 Program. Section 234 of the NHA authorizes mortgage insurance for one-family units in condominium projects. Under this section, the Secretary may increase the maximum mortgage amount on an area-by-area basis if the Secretary deems it necessary after considering the extent to which moderate- and middle-income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 234 provides that the increase may not exceed the lesser of the following:

A. 111 percent of $67,500; or

B. 95 percent of the median one-family house price in the area, as determined by the Secretary.

The Housing and Urban-Rural Recovery Act of 1983 (1983 Act) was approved by the President on November 30, 1983. Section 420(b) of the 1983 Act removes the separate maximum dollar amount limits for a one-family condominium and provides the Secretarty with the discretion to approve amounts up to those provided for single-family residences in section 203(b) of the NHA. The Department has decided to proceed with the publication of this Notice in its present form, since the notice reflects "high-cost" area limits already determined by the Department to be appropriate for particular areas. Before providing by notice for new "high-cost" area limits reflecting the new discretionary authority set out in section 420(b) of the 1983 Act, it will be necessary for the Department to amend its current reguations.

Section 214 Program. In addition to the "high-cost" limits discussed above, the NHA provides special limits for Alaska, Guam, and Hawaii. Section 214 states that if the Secretary determines that because of higher prevailing costs, it is not feasible to construct dwellings in those areas within the maximum mortagage limits without scarificing sound standards of construction, design, or livability, the mortgage limits may be increased beyond the statutory "high-cost" limits indicated above. These limits, however, may not exceed the otherwise applicable amounts by more than one-half.

This Notice

This notice does three things. First, the Department revises the basic geographical delineation of "high-cost" areas. In the past, the Department has established "high-cost" limits based on SMSAs (Standard Metropolitan Statistical Areas), as defined by the Office of Management Budget (OMB). On June 27, 1983, OMB announced new definitions of metropolitan areas and changed the name from Standard Metropolitan Statistical Areas to Metropolitan Statistical Areas (MSAs) and Primary Metropolitan Statistical Areas (PMSAs), to be effective June 30, 1983. Whether an area is designated a MSA or a PMSA depends on certain characteristics of the area as specificed by OMB. Effective with this Notice, the Department lists "high-cost" area maximum mortage limits according to the MSA and PMSA designations.

This change to MSAs and PMSAs affects several jurisdictions. In some cases, areas eligible for "high-cost" limits have counties or towns added to them. MSAs and PMSAs with "high-cost" limits that are having new area added include: Boston, MA PMSA; Bridgeport-Milford, CT PMSA; Danbury, CT PMSA; Newark, NJ PMSA; Middlesex-Somerset-Hunterdon, NJ PMSA; Monmouth-Ocean, NJ PMSA; Atlantic City, NJ MSA; Washington, DC-MD-VA MSA; Balitmore, MD MSA; Richmond-Petersburg, VA MSA; Norfolk-Virginia Beach-Newport News, VA MSA; Atlanta, GA MSA; Jackson, MS MSA; Tampa-St. Petersburg-Clearwater, FL MSA; Minneapolis-St. Paul, MN MSA; St. Louis, MO-IL PMSA; Aurora-Elgin, IL PMSA; Joliet, IL PMSA; Detroit, MI PMSA; Columbus, OH MSA; Oklahoma City, OK MSA; New Orleans, LA MSA; Kansas City, MO PMSA; Kansas City, KS PMSA; and Portland, OR PMSA. (See the complete list of "high-cost" limits at the end of this document for specific jurisdictions added to these areas.)

In other cases, areas eligible for "high-cost" limits have had counties or towns removed. Jurisdictions transferred *from* "high-cost" areas include: Abington town, Plymouth County, MA, transferred from Boston, MA SMSA to Brockton, MA PMSA; Boxford town, Essex County, MA, transferred from Boston, MA SMSA to Lawrence-Haverhill, MA-NH PMSA; Currituck County, NC deleted from Norfolk-Virginia Beach-Newport News, VA MSA and made non-metro; Hood County and Wise County, TX, deleted from Ft. Worth-Arlington, TX PMSA and made non-metro; Sandoval County, NM, deleted from Albuquerque NM MSA and made non-metro; Mayes County, OK, deleted from Tulsa, OK MSA and made non-metro; Gilpin County, CO, deleted from Denver, CO PMSA and made non-metro; and Tooele County, UT, deleted from the Salt Lake City-Ogden, UT MSA and

made non-metro. In all cases, the transfers are to areas that are not designated "high-cost", but are subject to the statutory limit of $67,500 for a one-family residence. (See other dwelling size statutory limits discussed earlier in this Preamble.)

Jurisdictions deleted from "high-cost" areas will revert to the statutory maximum mortgage amount limit. The Department believes that immediately affecting this decrease in mortgage limits may cause hardship in some cases, and may not be appropriated in others. For these reasons, the Department is delaying implementation of the lower limits to give affected jurisdictions the opportunity to submit data which demonstrates the need for "high-cost" limits. As discussed in previous Notices, the Department has specified the following recommended procedure for requesting a change in area limits.

If a party believes that the mortgage limit for an area (including an area currently subject to statutory limits) does not accurately reflect the extent to which moderate- and middle-income persons have limited housing opportunities because of high prevailing housing sales prices, the party may submit documentation in support of an alternative mortgage limit. Where possible, such documentation should include: (1) A sample listing of actual sales prices for both new and existing one-family homes. This listing should contain a brief address of each property, the sales price, month and year of sale and whether the property is new or existing; and (2) the actual or estimated median sales prices for both new and existing homes in the sample. Any sample should be representative of the total sales that were made during a recent period of at least three months for the entire geographic area for which the request is made. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the mortgage limit may be based on 95 percent of the average of the new and the existing median sales prices.

If a party believes that the otherwise applicable mortgage limit in Alaska, Guam or Hawaii needs to be increased to reflect the extent to which high costs make it infeasible to construct dwellings without sacrificing sound standards of construction, design or livability, the party may submit documentation in support of an alternative mortgage limit. This documentation should include actual or estimated costs of such items as design, construction, materials, and labor. In addition, actual sale prices of new homes may be submitted, together with any other documentation requested by the Commissioner.

Requests for alternative mortgage limits, together with the supporting documentation, should be sent to the appropriate HUD field office. The field office will forward the request and supporting material, with the field office's recommendation, to the Commissioner for determination.

For the jurisdictions listed above that have been removed from "high-cost" areas, the Department will accept data until April 6, 1984. After this date, the Department will make a determination for each area and will publish notice of this determination in the **Federal Register.** Each determination will state what the maximum mortgage amount limit is for the jurisdiction removed from a "high-cost" area by today's publication. The determination will be effective upon publication in the **Federal Register.** Until the determination is published, however, the high-cost area amounts applicable to the jurisdiction before its removal from the MSA or PMSA will continue to be applied.

In the future, should the Department determine (based on market data) that it is inappropriate to retain the "high-cost" mortgage limits for any area and that a lower mortgage limit is appropriate for the area, HUD will publish this determination in the **Federal Register,** and will provide thirty days' notice for each affected jurisdiction.

Second, the Department announces for the first time a "high-cost" area at the county level. Section 203 of the NHA authorizes the Secretary of HUD to establish special "high-cost" mortgage limits on an "area-by-area" basis. Until now, the Department has issued such limits solely on the basis of the OMB-defined metroplitan/non-metropolitan areas throughout the country. The Department makes changes in mortgage limits when it determines that there are limited housing sales opportunities for persons of moderate- and middle-income due to high prevailing sales prices in an area. The Department makes such a determination based on information it receives, which can include a request by any interested party. Because data has been submitted by interested persons in Collier County, Florida which demonstrates the need for higher mortgage limits, the Department is establishing new "high-cost" limits for this county. The Department would like to emphasize that it believes that it is not feasible to issue mortgage limits for geographic areas smaller than a county, and will establish a "high-cost" area at the county level only upon request by interested persons from the area, which request demonstrates the need for higher limits.

Finally, in addition to Collier County, FL, this Notice identifies two new "high-cost" areas, the Nashville, TN MSA, and the San Juan, PR PMSA with new maximum mortgage limits for these areas, and further increases the limits in two existing "high-cost" areas, the St. Louis, MO–IL PMSA and the East St. Louis-Belleville, IL PMSA.

Future Changes to Maximum Mortgage Amounts

Notices will be published from time to time announcing the "high-cost" limits for particular jurisdictions, and the complete list of area-wide limits will be published at least annually in the **Federal Register.** A complete updating of these limits was last published on April 12, 1983 (see 48 FR 15724).

The information collection procedure described in this Notice has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. The recommended procedure for submitting data will be effective upon OMB approval and publication of effectiveness in the **Federal Register.**

Accordingly, the Commissioner hereby publishes the revised listing of "high-cost" areas and the applicable amounts as follows:

UPDATING OF FHA SECTION 203(B) AND SECTION 214 AREA WIDE MORTGAGE LIMITS

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Region I				
HUD FIELD OFFICE: BOSTON OFFICE				
Boston, MA PMSA				
Bristol County, MA (part)	$72,700	$81,900	$99,600	$114,900
Mansfield town				
Norton town				
Raynham town				
Essex County, MA (part):				
Lynn city				
Lynnfield town				
Nahant town				
Saugus town				
Middlesex County, MA (part):				
Acton town				
Arlington town				
Ashland town				
Ayer town				

UPDATING OF FHA SECTION 203(B) AND SECTION 214 AREA WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Bedford town				
Belmont town				
Boxborough town				
Burlington town				
Cambridge city				
Carlisle town				
Concord town				
Everett city				
Framingham town				
Groton town				
Holliston town				
Hopkinton town				
Hudson town				
Lexington town				
Lincoln town				
Littleton town				
Malden city				
Marlborough city				
Maynard town				
Medford city				
Melrose city				
Natick town				
Newton city				
North Reading town				
Reading town				
Sherborn town				
Shirley town				
Somerville city				
Stoneham town				
Stow town				
Sudbury town				
Townsend town				
Wakefield town				
Waltham city				
Watertown town				
Wayland town				
Weston town				
Wilmington town				
Winchester town				
Woburn city				
Norfolk County, MA (part):				
Bellingham town				
Braintree town				
Brookline town				
Canton town				
Cohasset town				
Dedham town				
Dover town				
Foxborough town				
Franklin town				
Holbrook town				
Medfield town				
Medway town				
Millis town				
Milton town				
Needham town				
Norfolk town				
Norwood town				
Quincy city				
Randolph town				
Sharon town				
Stoughton town				
Walpole town				
Wellesley town				
Westwood town				
Weymouth town				
Wrentham town				
Plymouth County, MA (part):				
Carver town				
Duxbury town				
Hanover town				
Hanson town				
Hingham town				
Hull town				
Kingston town				

UPDATING OF FHA SECTION 203(B) AND SECTION 214 AREA WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Lakeville town				
Marshfield town				
Middleborough town				
Norwell town				
Pembroke town				
Plymouth town				
Plympton town				
Rockland town				
Scituate town				
Suffolk County, MA:				
Boston city				
Chelsea city				
Revere city				
Winthrop town				
Worcester County, MA (part):				
Berlin town				
Bolton town				
Harvard town				
Hopedale town				
Lancaster town				
Mendon town				
Milford town				
Southborough town				
Upton town				
Salem-Gloucester, MA PMSA				
Essex County, MA (part)	$72,700	$81,900	$99,600	$114,900
Beverly city				
Danvers town				
Essex town				
Gloucester city				
Hamilton town				
Ipswich town				
Manchester town				
Marblehead town				
Middleton town				
Peabody city				
Rockport town				
Rowley town				
Salem city				
Swampscott town				
Topsfield town				
Wenham town				
Other Areas				
Essex County-Boxford town	$72,700	$81,900	$99,600	$114,900
Plymouth County-Abington town				

HUD FIELD OFFICE: HARTFORD OFFICE

Bridgeport-Milford, CT PMSA				
Fairfield County (part)	$81,900	$92,200	$112,100	$129,300
Bridgeport city				
Easton town				
Fairfield town				
Monroe town				
Shelton city				
Stratford town				
Trumbull town				
New Haven County, CT (part):				
Ansonia city				
Beacon Falls town				
Derby city				
Milford city				
Oxford town				
Seymour town				
Danbury, CT PMSA				
Fairfield County (part)	$90,000	$101,300	$122,650	$142,650
Bethel town				
Brookfield town				

UPDATING OF FHA SECTION 203(B) AND SECTION 214 AREA WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Danbury city				
New Fairfield town				
Newtown town				
Redding town				
Ridgefield town				
Sherman town				
Litchfield County, CT (part):				
Bridgewater town				
New Milford town				
Norwalk, CT PMSA				
Fairfield County (part)	$90,000	$101,300	$122,650	$142,650
Norwalk city				
Weston town				
Westport town				
Wilton town				
Stamford, CT PMSA				
Fairfield County (part)	$90,000	$101,300	$122,650	$142,650
Stamford city				
Darien town				
Greenwich town				
New Canaan town				
State of Connecticut—all other metro and non-metro areas	$71,800	$80,900	$98,300	$113,400

Region III

HUD FIELD OFFICE: CARIBBEAN OFFICE

San Juan, PR PMSA				
Barceloneta Municipio	$79,400	$89,450	$108,700	$125,400
Bayamon Municipio				
Canovenas Municipio				
Carolina Municipio				
Catano Municipio				
Corozal Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guaynabo Municipio				
Humacao Municipio				
Juncos Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Naranjito Municipio				
Rio Grande Municipio				
San Juan Municipio				
Toa Alta Municipio				
Toa Baja Municipio				
Trujillo Alto Municipio				
Vega Alta Municipio				
Vega Baja Municipio				

HUD FIELD OFFICE: NEW YORK OFFICE

New York, NY PMSA				
Bronx County	$90,000	$101,300	$122,650	$142,650

UPDATING OF FHA SECTION 203(B) AND SECTION 214 AREA WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Kings County New York County Putnam County Queens County Richmond County Rockland County Westchester County Nassau-Suffolk, NY PMSA Nasssu County Suffolk County	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: NEWARK OFFICE				
Bergen-Passaic, NJ PMSA Bergen County Passaic County	$90,000	$101,300	$122,650	$142,650
Jersey City, NJ PMSA Hudson County	$90,000	$101,300	$122,650	$142,650
Middlesex-Somerset-Hunterdon, NJ PMSA Hunterdon County Middlesex County Somerset County	$90,000	$101,300	$122,650	$142,650
Monmouth-Ocean, NJ PMSA Monmouth County	$90,000	$101,300	$122,650	$142,650
Newark, NJ PMSA Essex County Morris County Sussex County Union County	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: CAMDEN OFFICE				
Atlantic City, NJ MSA Atlantic County Cape May County	$89,000	$100,000	$121,000	$141,000
Monmouth-Ocean, NJ PMSA Ocean County	$90,000	$101,300	$122,650	$142,650
Trenton, NJ MSA Mercer County	$88,500	$77,000	$93,500	$108,000
Wilmington, DE-NJ-MD MSA Salem County, NJ	$70,200	$79,100	$96,100	$110,900
Region III				
HUD FIELD OFFICE: PHILADELPHIA OFFICE				
Wilmington, DE-NJ-MD MSA New Castle County, DE	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: WASHINGTON, DC OFFICE				
Washington, DC-MD-VA MSA District of Columbia	$90,000	$101,300	$122,650	$142,650
Montgomery County, MD Prince Georges County, MD Alexandria, city, VA Fairfax County, VA Falls Church city, VA Manassas city, VA Manassas Park city, VA Arlington County, VA Loudon County, VA Prince William County, VA				
HUD FIELD OFFICE: BALTIMORE OFFICE				
Washington, DC-MD-VA MSA Charles County, MD Calvert County, MD Frederick County, MD	$90,000	$101,300	$122,650	$142,650
Baltimore, MD MAS (part): Howard County Anne Arundel County	$82,300	$92,700	$112,700	$130,000
Baltimore, MD MSA (part): Baltimore city Baltimore County Carroll County Harford County Queen Anne's County	$74,700	$84,200	$102,300	$118,000
Wilmington, DE-NJ-MD MSA Cecil County, MD	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: RICHMOND OFFICE				
Washington, DC-MD-VA MAS (part): Stafford County, VA	$90,000	$101,300	$122,650	$142,650
Richmond-Petersburg, VA MSA Richmond city Charles City County Chesterfield County Dinwiddie County Goochland County Hanover County Henrico County New Kent County Powhatan County Prince George County Colonial Heights city Hopewell city Petersburg city	$68,300	$76,900	$93,500	$107,900
Norfolk-VA Beach-Newport News, VA MSA Chesapeake city Hampton city Newport News city Norfolk city Poquoson city Portsmouth city Suffolk city Virginia Beach city Williamsburg city Gloucester County James City County York County	$76,500	$86,000	$104,500	$120,500
Region IV				
HUD FIELD OFFICE: COLUMBIA OFFICE				
Charleston-North Charleston, SC MSA Berkeley County Charleston County Dorchester County	$80,500	$90,500	$110,000	$127,500
Greenville-Spartanburg, SC MSA Greenville County Pickens County Spartanburg County	$72,900	$82,100	$99,700	$115,100
HUD FIELD OFFICE: GREENSBORO OFFICE				
Non-Metro Areas: Currituck County	$76,500	$86,000	$104,500	$120,500
HUD FIELD OFFICE: ATLANTA OFFICE				
Atlanta, GA MSA Butts County Barrow County Cherokee County Clayton County Cobb County Coweta County DeKalb County Douglas County Fayette County Forsyth County Fulton County Gwinnett County Henry County Newton County Paulding County Rockdale County Spalding County Walton County	$78,500	$88,500	$107,000	$124,500
HUD FIELD OFFICE: BIRMINGHAM OFFICE				
Mobile, AL MSA Baldwin County Mobile County	$75,000	$84,000	$120,500	$116,000
Montgomery, AL MSA Autauga County Elmore County Montgomery County				
HUD FIELD OFFICE: MEMPHIS OFFICE				
Memphis, TN-AR-MS MSA Shelby County, TN Tipton County, TN	$75,000	$84,000	$102,500	118,000
HUD FIELD OFFICE: NASHVILLE OFFICE				
Nashville, TN MSA Cheatham County	$75,000	$84,000	$102,500	118,000

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Davidson County				
Dickson County				
Robertson County				
Rutherford County				
Sumner County				
Williamson County				
Wilson County				
HUD Field Office: Jackson Office				
Jackson, MS MSA				
Hinds County	$76,000	$85,600	$104,000	120,000
Madison County				
Rankin County				
Memphis, TN-AR-MS MSA				
De Soto County, MS	$75,000	$84,000	$102,500	118,000
HUD Field Office: Coral Gables Office				
Ft. Lauderdale-Hollywood-Pompano Beach, FL PMSA				
Broward County	$78,700	$88,700	$107,700	124,300
Miami-Hialeah, FL PMSA				
Dade County	$81,800	$92,100	$111,900	129,100
West Palm Beach-Boca Raton-Delray Beach, FL MSA				
Palm Beach County	$79,700	$89,800	$109,100	$125,900
Non-Metro Areas:				
Collier County	$76,000	$85,500	$103,500	$120,500
HUD Field Office: Tampa Office				
Sarasota, FL MSA				
Sarasota County	$76,100	$85,700	$104,100	$120,100
Tampa-St. Petersburgh-Clearwater, FL MSA				
Hernando County	$71,500	$80,500	$97,900	$112,900
Hillsborough County				
Pasco County				
Pinellas County				
Region V				
HUD Field Office: Minneaplis-St Paul Office				
Minneapolis-St. Paul, MN MSA				
Anoka County	$90,000	$101,300	$122,650	$142,650
Carver County				
Chisago County				
Dakota County				
Hennepin County				
Isanti County				
Ramsey County				
Scott County				
Washington County				
Wright County				
St. Cloud, MN MSA				
Benton County	$68,500	$77,000	$93,500	$108,500
Sherburne County				
Stearns County				
HUD Field Office: Milwaukee Office				
Minneapolis-St. Paul, MN MSA				
St. Croix County, WI	$90,000	$101,300	$122,650	$142,650
Milwaukee, WI PMSA				
Milwaukee County	$73,500	$83,000	$100,500	$116,500
Ozaukee County				
Washington County				
Waukesha County				
HUD Field Office: Chicago Office				
Chicago, IL PMSA				
Cook County	$83,600	$94,200	$114,400	$132,000
DuPage County				
McHenry County				
Lake County, IL PMSA				
Lake County	$83,600	$94,200	$114,400	$132,000
Joliet, IL PMSA				
Grundy County	$83,600	$94,200	$114,400	$132,000
Will County				
Aurora-Elgin, IL PMSA				
Kane County	$83,600	$94,200	$114,400	$132,000
Kendall County				
St. Louis, MO-IL PMSA				
Monroe County IL	$85,500	$96,300	$117,000	$135,000
East St. Louis-Belleville, IL PMSA				
Clinton County, IL	$85,500	$96,300	$117,000	$135,000
St. Clair County, IL				
HUD Field Office: Detroit Office				
Detroit, MI PMSA				
Lapeer County	$75,300	$84,800	$103,000	$118,900
Livingston County				
Macomb County				
Monroe County				
Oakland County				
St. Clair County				
Wayne County				
HUD Field Office: Cleveland Office				
Cleveland, OH PMSA				
Cuyahoga County	$75,400	$84,900	$103,100	$119,000
Geauga County				
Lake County				
Medina County				
HUD Field Office: Columbus Office				
Columbus, OH MSA				
Delaware County	$81,100	$91,400	$111,000	$128,100
Fairfield County				
Franklin County				
Licking County				
Madison County				
Pickaway County				
Union County				
Region VI				
HUD Field Office: Dallas Office				
Dallas, TX PMSA				
Collin County	$85,000	$96,000	$115,500	$134,500
Dallas County				
Denton County				
Ellis County				
Kaufman County				
Rockwall County				
Sherman-Denison TX MSA				
Grayson County	$78,000	$88,000	$106,500	$124,000
HUD Field Office: Fort Worth Office				
Ft. Worth-Arlington, TX PMSA				
Johnson County	$85,000	$95,500	$111,500	$134,500
Parker County				
Tarrant County				
Other Non-Metro Areas:				
Hood County	$85,000	$95,500	$111,500	$134,500
Wise County				
HUD Field Office: Houston Office				
Houston, TX PMSA				
Brazoria County	$72,900	$82,200	$99,800	$115,200
Ft. Bend County				
Harris County				
Liberty County				
Montgomery County				
Waller County				
HUD Field Office: Lubbock Office				
Amarillo, TX MSA				
Potter County	$68,500	$77,000	$93,500	$108,500
Randall County				
Lubbock, TX MSA				
Lubbock County	$70,000	$78,500	$95,00	$110,500
Midland, TX MSA				
Midland County	$70,000	$78,500	$95,500	$110,500
HUD Field Office: San Antonio Office				
Austin, TX MSA				
Hays County	$77,000	$86,800	$105,400	$121,700
Travis County				
Williamson County				
San Antonio, TX MSA				
Bexar County	$77,000	$86,800	$105,400	$121,700
Comal County				
Guadalupe County				
Corpus Christi, TX MSA				
Nueces County	$70,000	$78,500	$95,500	$110,500
San Patricio County				
HUD Field Office: Little Rock Office				
Memphis, TN-AR-MS MSA				
Crittenden County, AR	$75,000	$84,000	$102,500	$118,000
HUD Field Office: Oklahoma City Office				
Oklahoma City, OK MSA				
Canadian County	$68,000	$76,500	$93,000	$108,000
Cleveland County				
Logan County				
McClain County				
Oklahoma County				
Pottawatomie County				
HUD Field Office: New Orleans Office				
Baton Rouge, LA MSA				
Ascension Parish	$76,000	$85,500	$103,500	$120,500
East Baton Rouge Parish				
Livingston Parish				
West Baton Rouge Parish				
New Orleans, LA MSA				
Jefferson Parish	$76,000	$85,500	$103,500	$120,500
Orleans Parish				
St. Bernard Parish				
St. Charles Parish				
St. John the Baptist Parish				
St. Tammany Parish				
HUD Field Office: Shreveport Office				
Shreveport, LA MSA				
Bossier Parish	$75,500	$85,000	$103,300	$119,200
HUD Field Office: Albuquerque Office				
Albuquerque, NM MSA				
Bernalillo County	$76,500	$86,000	$104,000	$121,000
Other Non-Metro Areas: Sandoval County	$76,500	$86,000	$104,000	$121,000

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
HUD Field Office: Tulsa Office				
Tulsa, OK MSA				
Creek County	$82,500	$92,900	$112,900	$130,300
Osage County				
Rogers County				
Tulsa County				
Wagoner County				
Other Non-Metro Areas: Mayes County	$82,500	$92,900	$112,900	$130,300
Region VII				
HUD Field Office: Kansas City Office				
Kansas City, MO PMSA				
Cass County, MO	$81,600	$91,900	$111,700	$128,900
Clay County, MO				
Jackson County, MO				
Lafayette County, MO				
Platt County, MO				
Ray County, MO				
Kansas City, KS PMSA				
Johnson County, KS	$81,600	$91,900	$111,700	$128,900
Leavenworth County, KS				
Miami County, KS				
Wyandotte County, KS				
HUD Field Office: St. Louis Office				
St. Louis, MO-IL PMSA				
St. Louis City	$85,500	$96,300	$117,000	$135,000
Franklin County				
Jefferson County				
St. Charles County				
St. Louis County				
Region VIII				
HUD Field Office: Denver Office				
Denver, Co PMSA				
Adams County	$76,000	$85,500	$103,500	$120,500
Arapahoe County				
Denver County				
Douglas County				
Jefferson County				
Boulder-Longmont, CO PMSA				
Boulder County, CO	$76,000	$85,500	$103,500	$120,500
State of Colorado:				
Gilpin County	$76,000	$85,500	$103,500	$120,500
All Other Areas	$71,800	$80,900	$98,300	$113,400
State of Wyoming	$75,000	$84,000	$102,500	$118,000
HUD Field Office: Helena Office				
State of Montana	$75,500	$84,000	$102,500	$118,000
HUD Field Office: Salt Lake City Office				
Salt Lake City-Ogden, UT MSA				
Davis County	$75,000	$84,000	$102,500	$118,000
Salt Lake County				
Weber County				
Other Non-Metro Areas: Tooele County	$75,000	$84,000	$102,000	$118,000
Region IX				
HUD Field Office: Los Angeles Office				
Los Angeles Office Metro and Non-Metro Areas: Los Angeles County	$90,000	$101,300	$122,650	$142,650
San Luis Obispo County				
Santa Barbara County				
Ventura County				
HUD Field Office: San Francisco Office				
San Francisco Office Metro and Non-Metro Areas: Alameda County	$90,000	$101,300	$122,650	$142,650
Contra Costa County				
Del Norte County				
Humboldt County				
Lake County				
Marin County				
Mendocino County				
Monterey County				
Napa County				
San Benito County				
San Francisco County				
San Mateo County				
Santa Clara County				
Santa Cruz County				
Solano County				
Sonoma County				
HUD Field Office: Fresno Office				
Fresno Office Metro and Non-Metro Areas: Fresno County	$88,500	$99,700	$121,200	$139,800
Kern County				
Kings County				
Madera County				
Mariposa County				
Merced County				
Stanislaus County				
Tulare County				
HUD Field Office: Sacramento Office				
Sacramento Office Metro and Non-Metro Areas: Alpine County	$84,000	$95,000	$115,000	$133,500
Amador County				
Butte County				
Calaveras County				
Colusa County				
El Dorado County				
Glenn County				
Lassen County				
Modoc County				
Nevada County				
Placer County				
Plumas County				
Sacramento County				
San Joaquin County				
Shasta County				
Sierra County				
Siskiyou County				
Sutter County				
Tehama County				
Trinity County				
Tuolumne County				
Yolo County				
Yuba County				
HUD Field Office: San Diego Office				
San Diego Office Metro and Non-Metro Areas: Imperial County	$90,000	$101,300	$122,650	$142,650
San Diego County				
HUD Field Office: Santa Ana Office				
Santa Ana Office Metro Areas	$90,000	$101,300	$122,650	$142,650
Orange County				
Riverside County				
San Bernardino County				
Non-Metro Areas	$75,000	$84,000	$102,500	$188,000
Inyo County				
Mono County				
HUD Field Office: Las Vegas Office				
Las Vegas, NV MSA				
Clark County	$90,000	$101,300	$122,650	$142,650
State of Nevada Non-Metro Areas				
Lincoln County	$75,000	$84,000	$102,500	$118,000
Nye County (part)				
HUD Field Office: Reno Office				
Reno, NV MSA				
Washoe County	$89,500	$101,000	$122,000	$142,000
State of Nevada Non-Metro Areas				
Carson City County	$75,000	$84,000	$102,500	$118,000
Churchill County				
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humboldt County				
Lander County				
Lyon County				
Mineral County				
Nye County (Part)				
Pershing County				
Storey County				
White Pine County				
HUD Field Office: Phoenix Office				
Phoenix, AZ MSA				
Maricopa County	$87,100	$98,100	$119,200	$137,600
HUD Field Office: Tucson Office				
Tucson, AZ MSA				
Pima County	$77,200	$86,900	$105,600	$121,800
HUD Field Office: Honolulu Office				
State of Hawaii				
Metro and Non-Metro Areas	$135,000	$151,950	$183,975	$213,975
Territory of Guam	$101,250	$114,000	$138,000	$160,500
Region X				
HUD Field Office: Seattle Office				
Seattle, WA PMSA				
King County	$85,200	$96,000	$116,700	$134,600
Snohomish County				
Tacoma, WA PMSA				
Pierce County	$71,000	$80,000	$97,500	$112,500
Yakima, WA MSA				
Yakima County	$72,000	$81,500	$99,000	$114,000
HUD Field Office: Portland Office				
Portland, OR PMSA				
Clackamas County	$81,600	$91,900	$111,600	$128,800
Multnomah County				
Washington County				
Yamhill County				
Vancouver, WA PMSA				
Clark County, WA	$81,600	$91,900	$111,600	$128,800

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
HUD Field Office: Anchorage Office				
State of Alaska				
All Areas	$135,000	$151,950	$183,975	$213,975
HUD Field Office: Spokane Office				
Richland-Kennewick-Pasco, WA MSA				
Benton County	$72,000	$81,500	$99,000	$114,00
Franklin County				
Spokane, WA MSA				
Spokane County	$72,000	$81,500	$99,000	$114,000
HUD Field Office: Boise Office				
Boise City, ID MSA				
Ada County	$75,000	$84,000	$102,500	$116,000

Updating of FHA Section 234(c) and Section 214 Area Wide Mortage Limits

Market area designation and local jurisdictions	Mortgage limits (condominium units)
Region I	
HUD Field Office: Boston Office	
Boston, MA PMSA	
Bristol County, MA (part)	$72,700
Mansfield town	
Norton town	
Raynham town	
Essex County, MA (part):	
Lynn city	
Lynnfield town	
Nahant town	
Saugus town	
Middlesex County, MA (part):	
Acton town	
Arlington town	
Ashland town	
Ayer town	
Bedford town	
Belmont town	
Boxborough town	
Burlington town	
Cambridge city	
Carlisle town	
Concord town	
Everett city	
Framingham town	
Groton town	
Holliston town	
Hopkinton town	
Hudson town	
Lexington town	
Lincoln town	
Littleton town	
Malden city	
Marlborough city	
Maynard town	
Medfrod city	
Melrose city	
Natick town	
Newton city	
North Reading town	
Reading town	
Sherborn town	
Lakeville town	$72,700
Marshfield town	
Middleborough town	
Norwell town	

Updating of FHA Section 234(c) and Section 214 Area Wide Mortage Limits—Continued

Market area designation and local jurisdictions	Mortgage limits (condominium units)
Pembroke town	
Plymouth town	
Plympton town	
Rockland town	
Scituate town	
Suffolk County, MA	
Boston city	
Chelsea city	
Revere city	
Winthrop town	
Worcester County, MA (part):	
Berlin town	
Bolton town	
Harvard town	
Hopedale town	
Lancaster town	
Mendon town	
Milford town	
Southborough town	
Upton town	
Salem-Gloucester, MA PMSA	
Essex County, MA (part)	$72,700
Beverly city	
Danvers town	
Essex town	
Gloucester city	
Hamilton town	
Ipswich town	
Manchester town	
Marblehead town	
Middleton town	
Peabody city	
Rockport town	
Rowley town	
Salem city	
Swampscott town	
Topsfield town	
Wenham town	
Other Areas:	
Essex County-Boxford town	$72,700
Plymouth County-Abington town	$72,700
Shirley town	$72,700
Somerville city	
Stoneham town	
Stow town	
Sudbury town	
Townsend town	
Wakefield town	
Waltham city	
Watertown town	
Wayland town	
Weston town	
Wilmington town	
Winchester town	
Woburn city	
Norfolk County, MA (part):	
Bellingham town	
Braintree town	
Brookline town	
Canton town	
Cohasset town	
Dedham town	
Dover town	
Foxborough town	
Franklin town	
Holbrook town	
Medfield town	
Medway town	
Millis town	
Milton town	
Needham town	
Norfolk town	

Updating of FHA Section 234(c) and Section 214 Area Wide Mortage Limits—Continued

Market area designation and local jurisdictions	Mortgage limits (condominium units)
Norwood town	
Quincy city	
Randolph town	
Sharon town	
Stoughton town	
Walpole town	
Wellesley town	
Westwood town	
Weymouth town	
Wrentham town	
Plymouth County, MA (part):	
Carver town	
Duxbury town	
Hanover town	
Hanson town	
Hingham town	
Hull town	
Kingston town	
HUD Field Office: Hartford Office	
Bridgeport-Milford, CT PMSA	
Fairfield County (part)	$74,900
Bridgeport city	
Easton town	
Fairfield town	
Monroe town	
Shelton city	
Stratford town	
Trumbull town	
New Haven County CT (part):	
Ansonia city	
Beacon Falls town	
Derby city	
Milford city	
Oxford town	
Seymour town	
Danbury, CT PMSA	
Fairfield County (part)	$74,900
Bethel town	
Brookfield town	
Danbury city	
New Fairfield town	
Newtown town	$74,900
Redding town	
Ridgefield town	
Sherman town	
Litchfield County, CT (part):	
Bridgewater town	
New Milford town	
Norwalk, CT PMSA	
Fairfield County (part)	$74,900
Norwalk city	
Weston town	
Westport town	
Wilton town	
Stamford, CT PMSA	
Fairfield County (part)	$74,900
Stamford city	
Darien town	
Greenwich town	
New Canaan town	
State of Connecticut—All Other Metro and Non-Metro Areas	$71,600
Region II	
HUD Field Office: Caribbean Office	
San Juan, PR PMSA	
Barceloneta Municipio	$74,900

UPDATING OF FHA SECTION 234(C) AND SECTION 214 AREA WIDE MORTAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits (condominium units)
Bayamon Municipio	
Canovanas Municipio	
Carolina Municipio	
Catano Municipio	
Corozal Municipio	
Dorado Municipio	
Fajardo Municipio	
Floridia Municipio	
Guaynabo Municipio	
Humacao Municipio	
Juncos Municipio	
Las Piedras Municipio	
Loiza Municipio	
Luquillo Municipio	
Manati Municipio	
Naranjito Municipio	
Rio Grande Municipio	
San Juan Municipio	
Toa Alta Municipio	
Toa Baja Municipio	
Trujillo Alto Municipio	
Vega Alta Municipio	
Vega Baja Municipio	
HUD FIELD OFFICE: NEW YORK OFFICE	
New York, NY PMSA	
Bronx County	$74,900
Kings County	
New York County	
Putnam County	
Queens County	
Richmond County	
Rockland County	
Westchester County	
Nassau-Suffolk, NY PMSA	
Nassau County	
Suffolk County	
HUD FIELD OFFICE: NEWARK OFFICE	
Bergen-Passaic, NJ PMSA	
Bergen County	$74,900
Passaic County	
Jersey City, NJ PMSA	
Hudson County	$74,900
Middlesex-Somerset-Hunterdon, NJ PMSA:	
Hunterdon County	
Middlesex County	
Somerset County	
Monmouth-Ocean, NJ PMSA	
Monmouth County	$74,900
Newark, NJ PMSA	
Essex County	$74,900
Morris County	
Sussex County	
Union County	
HUD FIELD OFFICE: CAMDEN OFFICE	
Atlantic City, NJ MSA	
Atlantic County	$74,900
Cape May County	
Monmouth-Ocean, NJ PMSA	
Ocean County	$74,900
Trenton, NJ MSA	
Mercer County	$68,500
Wilmington, DE-NJ-MD MSA	
Salem County, NJ	$70,200
Region III	
HUD FIELD OFFICE: PHILADELPHIA OFFICE	
Wilmington, DE-NJ-MD MSA	
New Castle County, DE	$70,200
HUD FIELD OFFICE: WASHINGTON, DC OFFICE	
Washington, DC-MD-VA MSA	
District of Columbia	$74,900
Montgomery County, MD	
Prince Georges County, MD	
Alexandria, city, VA	
Fairfax County, VA	
Falls Church city, VA	
Manassas city, VA	
Manassas Park city, VA	
Arlington County, VA	
Loudon County, VA	
Prince William County, VA	
HUD FIELD OFFICE: BALTIMORE OFFICE	
Washington, DC-MD-VA MSA	
Charles County, MD	$74,900
Calvert County, MD	
Frederick County, MD	
Baltimore, MD MSA (part):	
Howard County	$74,900
Anne Arundel County	
Baltimore, MD MSA (part):	
Baltimore city	$74,700
Baltimore County	
Carroll County	
Harford County	
Queen Anne's County	
Wilmington, DE-NJ-MD MSA	
Cecil County, MD	$70,200
HUD FIELD OFFICE: RICHMOND OFFICE	
Wasington, DC-MD-VA MSA (part):	
Stafford County, VA	$74,900
Richmond-Petersburg, VA MSA	
Richmond City	$68,300
Charles City County	
Chesterfield County	
Dinwiddie County	
Goochland County	
Hanover County	
Henrico County	
New Kent County	
Powhatan County	
Prince George County	
Colonial Heights city	
Hopewell city	
Petersburg city	
Norfolk-VA Beach-Newport News, VA MSA	
Chesapeake city	$74,900
Hampton city	
Newport News city	
Norfolk city	
Poquoson city	
Portsmouth city	
Suffolk city	
Virginia Beach city	
Williamsburg city	
Gloucester County	
James City County	
York County	
Region IV	
HUD FIELD OFFICE: COLUMBIA OFFICE	
Charleston-North Charleston, SC MSA	
Berkeley County	$74,900
Charleston County	
Dorchester County	
Greenville-Spartanburg, SC MSA	
Greenville County	$72,900
Pickens County	
Spartanburg County	
HUD FIELD OFFICE: GREENSBORO OFFICE	
Non-Metro Areas: Currituck County	$74,900
HUD FIELD OFFICE: ATLANTA OFFICE	
Atlanta, GA MSA	
Butts County	$74,900
Barrow County	
Cherokee County	
Clayton County	
Cobb County	
Coweta County	
Dekalb County	
Douglas County	
Fayette County	
Forsyth County	
Fulton County	
Gwinnett County	
Henry County	
Newton County	
Paulding County	
Rockdale County	
Spalding County	
Walton County	
HUD FIELD OFFICE: BIRMINGHAM OFFICE	
Mobile, AL MSA	
Baldwin County	$74,900
Mobile County	
Montgomery, AL MSA	
Autauga County	
Elmore County	
Montgomery County	
HUD FIELD OFFICE: MEMPHIS OFFICE	
Memphis, TN-AR-MS MSA	
Shelby County, TN	$74,900
Tipton County, TN	
HUD FIELD OFFICE: NASHVILLE OFFICE	
Nashville, TN MSA	
Cheatham County	$74,900
Davidson County	
Dickson County	
Robertson County	
Rutherford County	
Sumner County	
Williamson County	
Wilson County	
HUD FIELD OFFICE: JACKSON OFFICE	
Jackson, MS MSA	
Hinds County	$74,900
Madison County	
Rankin County	
Memphis, TN-AR-MS MSA	
Desoto County, MS	$74,900
HUD FIELD OFFICE: CORAL GABLES OFFICE	
Ft. Lauderdale—Hollywood—Pampano Beach, FL PMSA	
Broward County	$74,900
Miami-Hialeah, FL PMSA	
Dade County	$74,900
West Palm Beach—Boca Raton—Delray Beach, FL MSA	
Palm Beach County	$74,900
Non-Metro Areas: Collier County	$74,900
HUD FIELD OFFICE: TAMPA OFFICE	
Sarasota, FL MSA	
Sarasota County	$74,900

Market area designation and local jurisdictions	Mortgage limits (condominium units)
Tampa-St. Petersburgh-Clearwater, FL MSA	
Hernando County	$71,500
Hillsborough County	
Pasco County	
Pinellas County	
Region V	
HUD Field Office: Minneapolis-St Paul Office	
Minneapolis-St. Paul, MN MSA	
Anoka County	$74,900
Carver County	
Chisago County	
Dakota County	
Hennepin County	
Isanti County	
Ramsey County	
Scott County	
Washington County	
Wright County	
St. Cloud, MN MSA	
Benton County	$68,500
Sherburne County	
Sterns County	
HUD Field Office: Milwaukee Office	
Minneapolis-St. Paul, MN MSA	
St. Croix County, WI	$74,900
Milwaukee, WI PMSA	
Milwaukee County	$73,500
Ozaukee County	
Washington County	
Waukesha County	
HUD Field Office: Chicago Office	
Chicago, IL PMSA	
Cook County	$74,900
DuPage County	
McHenry County	
Lake County, IL PMSA	
Lake County	$74,900
Joliet, IL PMSA	
Grundy County	$74,900
Will County	
Aurora-Elgin, IL PMSA	
Kane County	$74,900
Kendall County	
St. Louis, MO–IL PMSA	
Monroe County, IL	$74,900
East St. Louis-Belleville, IL PMSA	
Clinton County, IL	$74,900
St. Clair County, IL	
HUD Field Office: Detroit Office	
Detroit, MI PMSA	
Lapeer County	$74,900
Livingston County	
Macomb County	
Monroe County	
Oakland County	
St. Clair County	
Wayne County	
HUD Field Office: Cleveland Office	
Cleveland, OH PMSA	
Cuyahoga County	$74,900
Geauga County	
Lake County	
Medina County	
HUD Field Office: Columbus Office	
Columbus, OH MSA	
Delaware County	$74,900
Fairfield County	
Franklin County	
Licking County	
Madison County	
Pickaway County	
Union County	
Region IV	
HUD Field Office: Dallas Office	
Dallas, TX PMSA	
Collin County	$74,900
Dallas County	
Denton County	
Ellis County	
Kaufman County	
Rockwall County	
Sherman-Denison TX MSA	
Grayson County	$74,900
HUD Field Office: Fort Worth Office	
Ft. Worth-Arlington, TX PMSA	
Johnson County	$74,900
Parker County	
Tarrant County	
Other Non-Metro Areas:	
Hood County	$74,900
Wise County	
HUD Field Office: Houston Office	
Houston, TX PMSA	
Brazoria County	$72,900
Ft. Bend County	
Harris County	
Liberty County	
Montogomery County	
Waller County	
HUD Field Office: Lubbock Office	
Amarillo, TX MSA	
Potter County	$68,500
Randall County	
Lubbock, TX MSA	
Lubbock County	$70,000
Midland, TX MSA	
Midland County	$70,000
HUD Field Office: San Antonio Office	
Austin, TX MSA	
Hays County	$74,900
Travis County	
Williamson County	
San Antonio, TX MSA	
Bexar County	$74,900
Comal County	
Guadalupe County	
Corpus Christi, TX MSA	
Nueces County	$70,000
San Patricio County	
HUD Field Office: Little Rock Office	
Memphis, TN-AR-MS MSA	
Crittenden County, AR	$74,900
HUD Field Office: Oklahoma City Office	
Oklahoma City, OK MSA	
Canadian County	$68,000
Cleveland County	
Logan County	
McClain County	
Oklahoma County	
Pottawatomie County	
HUD Field Office: New Orleans Office	
Baton Rouge, LA MSA	
Ascension Parish	$74,900
East Baton Rouge Parish	
Livingston Parish	
West Baton Rouge Parish	
New Orleans, LA MSA	
Jefferson Parish	$74,900
Orleans Parish	
St. Bernard Parish	
St. Charles Parish	
St. John the Baptist Parish	
St. Tammany Parish	
HUD Field Office: Shreveport Office	
Shreveport, LA MSA	
Bossier Parish	$74,900
Caddo Parish	
HUD Field Office: Albuquerque Office	
Albuquerque, NM MSA	
Bernalillo County	$74,900
Other Non-Metro Areas: Sandoval County	$74,900
HUD Field Office: Tulsa Office	
Tulsa, OK MSA	
Creek County	$74,900
Osage County	
Rogers County	
Tulsa County	
Wagoner County	
Other Non-Metro Areas: Mayes County	$74,903
Region VII	
HUD Field Office: Kansas City Office	
Kansas City, MO PMSA	
Cass County, MO	$74,900
Clay County, MO	
Jackson County, MO	
Lafayette County, MO	
Platt County, MO	
Ray County, MO	
Kansas City, KS PMSA	
Johnson County, KS	$74,900
Leavenworth County, KS	
Miami County, KS	
Wyandotte County, KS	
HUD Field Office: St. Louis Office	
St. Louis, MO–IL PMSA	
St Louis City	$74,900
Franklin County	
Jefferson County	
St. Charles County	
St. Louis County	
Region VIII	
HUD Field Office: Denver Office	
Denver, CO PMSA	
Adams County	$74,900
Arapahoe County	
Denver County	
Douglas County	
Jefferson County	
Boulder-Longmont, CO PMSA	
Boulder County, CO	$74,900
State of Colorado:	
Gilpin County	$74,900
All other Areas	$71,600
State of Wyoming	$74,900

Market area designation and local jurisdictions	Mortgage limits (condominium units)
HUD FIELD OFFICE: HELENA OFFICE	
State of Montana	$74,900
HUD FIELD OFFICE: SALT LAKE CITY OFFICE	
Salt Lake City-Ogden, UT MSA	
Davis County	$74,900
Salt Lake County	
Weber County	
Other Non-Metro Areas: Tooele County	74,900
Region IX	
HUD FIELD OFFICE: LOS ANGELES OFFICE	
Los Angeles Office Metro and Non-Metro Areas	
Los Angeles County	74,900
San Luis Obispo County	
Santa Barbara County	
Ventura County	
HUD FIELD OFFICE: SAN FRANCISCO OFFICE	
San Francisco Office Metro and Non-Metro Areas	
Alameda County	$74,900
Contra Costa County	
Del Norte County	
Humboldt County	
Lake County	
Marin County	
Mendocino County	
Monterey County	
Napa County	
San Benito County	
San Francisco County	
San Mateo County	
Santa Clara County	
Santa Cruz County	
Solano County	
Sonoma County	
HUD FIELD OFFICE: FRESNO OFFICE	
Fresno Office Metro and Non-Metro Areas	
Fresno County	$74,900
Kern County	
Kings County	
Madera County	
Mariposa County	
Merced County	
Stanislaus County	
Tulare County	
HUD FIELD OFFICE: SACRAMENTO OFFICE	
Sacramento Office Metro and Non- Metro Areas	
Alpine County	$74,900
Amador County	
Butte County	
Calaveras County	
Colusa County	
El Dorado County	
Glenn County	
Lassen County	
Modoc County	
Nevada County	
Placer County	
Plumas County	
Sacramento County	
San Joaquin County	
Shasta County	
Sierra County	
Siskiyou County	
Sutter County	
Tehama County	
Trinity County	
Tuolumne County	
Yolo County	
Yuba County	
HUD FIELD OFFICE: SAN DIEGO OFFICE	
San Diego Office Metro and Non-Metro Areas	
Imperial County	$74,900
San Diego County	
HUD FIELD OFFICE: SANTA ANA OFFICE	
Santa Ana Office	
Metro Areas	$74,900
Orange County	
Riverside County	
San Bernardino County	
Non-Metro Areas	$74,900
Inyo County	
Mono County	
HUD FIELD OFFICE: LAS VEGAS OFFICE	
Las Vegas, NV MSA	
Clark County	$74,900
State Nevada Non-Metro Areas	
Lincoln County	$74,900
Nye County (part)	
HUD FIELD OFFICE: RENO OFFICE	
Reno, NV MSA	
Washoe County	$74,900
State of Nevada Non-Metro Areas	
Carson City County	$74,900
Churchill County	
Douglas County	
Elko County	
Esmeralda County	
Eureka County	
Humboldt County	
Lander County	
Lyon County	
Mineral County	
Nye County (Part)	
Pershing County	
Storey County	
White Pine County	
HUD FIELD OFFICE: PHOENIX OFFICE	
Phoenix, AZ MSA	
Maricopa County	$74,900
HUD FIELD OFFICE: TUCSON OFFICE	
Tucson, AZ MSA	
Pima County	$74,900
HUD FIELD OFFICE: HONOLULU OFFICE	
State of Hawaii	
Metro and Non-Metro Areas	$112,350
Territory of Guam	$101,250
Region X	
HUD FIELD OFFICE: SEATTLE OFFICE	
Seattle, WA PMSA	
King County	$74,900
Snohomish County	
Tacoma, WA PMSA	
Pierce County	$71,000
Yakima, WA MSA	
Yakima, County	$72,000
HUD FIELD OFFICE: PORTLAND OFFICE	
Portland, OR PMSA	
Clackamas County	$74,900
Multnomah County	
Washington County	
Yamhill County	
Vancouver, WA PMSA	
Clark County, WA	$74,900
HUD FIELD OFFICE: ANCHORAGE OFFICE	
State of Alaska	
All Areas	$112,350
HUD FIELD OFFICE: SPOKANE OFFICE	
Richland-Kennewick-Pa co, WA MSA	
Benton County	$72,000
Franklin County	
Spokane, WA MSA	
Spokane County	$72,000
HUD FIELD OFFICE: BOISE OFFICE	
Boise City, ID ,MSA	
Ada County	$74,900

Dated: November 29, 1983.

W. Calvert Brand

Acting Assistant Secretary for Housing Federal Housing Commissioner.

[FR Doc. 83-32328 Filed 12-5-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise an existing system of records. The records system is titled "Employee Experience, Skills, Performance and Career Development Records—Interior, Office of the Secretary—76". The records system is being expanded to include records on contracting officers related to the Department's Contracting Officers Warrant System. The records in the Warrant System will reflect each contracting officer's training, experience, and qualifications. The revised system notice is published in its entirety below.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. The Office of Management and Budget, which has oversight responsibilities under the Act, requires a 60-day period in which to review proposals to significantly alter existing records systems. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before February 6, 1984, will be considered. This system notice shall be effective as proposed without further notice at the end of the comment

period unless comments are received which would require a contrary determination.

As required by Section 3 of the Privacy Act of 1974 (5 U.S.C. 552a(o)), the Director, Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives have been notified of this action.

Dated: November 25, 1983.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/OS-76

SYSTEM NAME:

Employee Experience, Skills, Performance, Training, and Career Development Records—Interior, Office of the Secretary—76.

SYSTEM LOCATION:

Servicing personnel office and/or administrative office of all bureaus and offices of the Department of the Interior. For Contracting Officers' Warrant System records the head of each bureau's central contracting office and the Office of Acquisition and Property Management in the Office of the Secretary.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of the Department of the Interior.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records relate to employees and contain such information as: Name; date of birth; social security number; office address and phone, service computation date; physical limitations or interests which might affect type of location of assignment; career interests; education history; work or skills experience; availability for geographic relocation; outside activities including membership in professional organizations; listing of special qualifications; licenses and certificates held; listing of honors and awards; career goals and objectives of the employee; annual supervisory evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 2951, 4118, 4308, 4506, 3101, 43 U.S.C. 1457, Reorganization Plan 3 of 1950, Executive Order 10561, Executive Order 12352.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) by bureau officials for purposes of review in connection with transfers, promotions, reassignments, adverse actions, disciplinary actions, and determination of qualifications, of an individual, (b) by bureau officials for setting out career goals and objectives of the employee and for documenting attainment of these targets, and (c) by bureau and Departmental officials in monitoring qualifications for maintaining a Contracting officer's Warrant.

Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders or on preprinted forms in file cabinets or on computer media.

RETRIEVABILITY:

Records may be indexed by name of the subject employee.

SAFEGUARDS:

Records are maintained with safeguards meeting minimum security requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are maintained only on current employees. Records are destroyed upon departure of the employee.

SYSTEM MANAGER(S) AND ADDRESS:

For all records other than Contracting Officers' Warrant System Records: (1) The Personnel Officer of each bureau of the Department for records maintained in the bureau. (See Appendix for addresses of bureau headquarters offices. (2) The chief, Division of Personnel Services, Office of Secretarial Operations, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. For all contracting Officers' Warrant System Records: (3) The Director, Officer of Acquisition and Property Management, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

An individual may inquire whether or not the system contains a record pertaining to him by contacting the personnel officer and/or administrative officer servicing the facility where the is employed. Contracting Officers may submit inquiries regarding Contracting Officers' Warrant System Records to the head of the procuring activity or to the Director, Office of Acquisition and Property Management. See 43 CFR 2.60 for notification procedure requirements.

RECORD ACCESS PROCEDURES:

Current employees who wish to gain access to their records should contact the same officials listed under "Notification procedure" above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Employees who wish to contest their records should contact the pertinent System Manager listed above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

[FR Doc. 83-32415 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-10-M

Privacy Act of 1974—Revision of System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (4 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise eleven existing system of records notices describing records maintained by the U.S. Fish and Wildlife Service. Except as noted below, the notices are being revised to update organization titles and other characteristics to reflect organization and other administrative changes made since the previous publication of the material in the **Federal Register** on March 24, 1981 (46 FR 18368) and June 25, 1981 (46 FR 32947).

All eleven notices are being revised to add compatible disclosures: (1) To consumer reporting agencies as authorized by 5 U.S.C. 552a(b)(12) and the Debt Collection Act of 1982 (Pub. L. 97-365); and (2) of addresses obtained from the Internal Revenue Service to debt collection agencies to collect or compromise a Federal claim, or to consumer reporting agencies to prepare a commercial credit report.

Four systems notices (FWS–2, FWS–4, FWS–24, and FWS–29) are being revised to add a compatible disclosure to other Federal agencies for the purpose of collecting debts owed the Federal government through administrative or salary offset.

One system notice, FWS–11, is being revised to clarify that routine compatible disclosures are made to title companies or abstractors, and to the General Services Administration.

Pursuant to the provisions of the Privacy Act of 1974 (Pub. L. 93–579), as amended, and the Debt Collection Act of 1982 (Pub. L. 97–365), the Department gives notice that it is authorized to enter into collection services contracts with persons or organizations for operation of systems of records to recover indebtedness owed to the United States. The Department will ensure that the terms of any contract will include a provision making the contractor responsible for complying with the provisions of the Privacy Act and applicable State and Federal debt collection laws.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR) U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before January 5, 1984, will be considered. The system notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: November 25, 1983.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/FWS–2

SYSTEM NAME:

Travel Records—Interior, FW–2.

SYSTEM LOCATION:

Finance Center, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 25346, Denver Federal Center, Denver, Colorado 80225. (2) Input documents supplied by all facilities of the U.S. Fish and Wildlife Service. (See Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have performed official travel for the U.S. Fish and Wildlife Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains authorizations to perform travel, travel advance records, and vouchers claiming reimbursement for expenses incurred in the performance of travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–5709; 5 U.S.C. 5721–5733 and 20 U.S.C. 905(a); 5 U.S.C. 5722 and 5 U.S.C. 5742(b); and 5 U.S.C. 4111(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to form the legal basis for the disbursement of federal funds. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (5) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit, (6) to other Federal agencies to effect salary and administrative offsets; (7) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by name of traveler.

SAFEGUARDS:

Maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Made in accordance with FPMR 101–11.4.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Finance Center U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 25346, DFC, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Office initiating the travel authorization and individual on whom the record is maintained.

INTERIOR/FWS–4

SYSTEM NAME:

Tort Claim Records—Interior, FWS–4

SYSTEM LOCATION:

(1) Division of Contracting and General services, U.S. Department of the Interior, Fish and Wildlife Service Washington, D.C. 20240; (2) regional offices of Fish and Wildlife Service. (See Appendix for regional addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants for damages to personal property or personal injury.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information regarding the individual who is required to evaluate a claim for damage to personal property or personal injury, i.e., name, address, insurance company, estimates of repair costs, accident reports by Government officials, law enforcement officials, attorneys, hospital and doctors' reports and bills for service, statements from witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act (28 U.S.C. 2671–2680).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is for evaluation by tort claims officers, attorneys in the Office of the Solicitor, Department of the Interior. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to other Federal agencies to effect salary and administrative offsets; (5) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures. pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper form, in "Tort Claim files."

RETRIEVABILITY:

By name of claimant.

SAFEGUARDS:

Maintained in compliance with provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Disposed four years after settlement of claim. Record copies held by Office of the Solicitor, Department of the Interior.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Contracting and General Services, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the office for which each is responsible. the request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual submitting claim; investigative reports, including statements from witnesses; medical reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/FWS–5

SYSTEM NAME:

National Wildlife Refuge Special Use Permits—Interior, FWS–5.

SYSTEM LOCATION:

Regional offices of the Fish and Wildlife Service, and individual national wildlife refuges.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for special use permits and cooperative farm agreements on Service lands.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, address of cooperative/permittees, types of special uses, period of use, and any special conditions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 688dd-ee). See 50 CFR Parts 29 and 32.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is Identification of personnel having special use permits and cooperative farming agreements on National Wildlife Refuges. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Special use permits and cooperative farming agreements are usually maintained not more than one year following the period of use.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in regional or field offices. A written, signmed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in regional or field offices. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/FWS-10

SYSTEM NAME:

National Fish Hatchery Special Use Permits—Interior, FWS-10.

SYSTEM LOCATION:

Regional offices of Fish and Wildlife Service and National Fish Hatcheries where records are maintained.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have made application for special use permits on National Fish Hatcheries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name and address of permittees, types of special uses, period of use, and any special conditions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

CFR 70.71. 16 U.S.C. 460k-3; 16 U.S.C. 664 See 50

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to limit and control the use of the property at the National Fish Hatcheries. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (4) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Maintained on paper in files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are maintained in accordance with the provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Destroyed after one year following period of use.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Hatcheries and Fishery Resource Management Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office or facility for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors with respect to records located in the office or facility for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

INTERIOR/FWS-11

SYSTEM NAME:

Real Property Records—Interior, FWS-11.

SYSTEM LOCATION:

Regional Offices, U.S. Fish and Wildlife Service (see appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Landowners, tenants and permittees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of individual files, i.e., title file; case file; and correspondence file. Along with this material is the corresponding tract appraisal report. The title file contains title evidence, original instrument of conveyance, copy of acquisition contract, title curative and closing data, title opinions, survey description and plat, payment vouchers, and appraisal summary. The case file contains a copy of the acquisition contract, copy of instrument of conveyance, closing data, survey description and plat, payment vouchers and appraisal summary. The correspondence file contains all general correspondence, negotiator's contacts and all material in connection with relocation assistance permits or

outgrants when appropriate. The appraisal report consists of the property description, local market data including comparable sales information, location maps and an analysis of value.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Land acquisition and disposal authorities are as follows: Migratory Bird Conservation Act, as amended (16 U.S.C. 715 et seq.); Migratory Bird Hunting Stamp Act, as amended (16 U.S.C. 718 et seq.); Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a et seq.); Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c); Recreational Use of Conservation Areas Act, as amended (16 U.S.C. 460k-460k–4); Colorado River Storage Project Act, as amended (43 U.S.C. 620g); Endangered Species Act of 1973 (16 U.S.C. 1531–1543); National Wildlife Refuge System Administration Act, as amended (16 U.S.C. 668dd-668ee); Act of May 19, 1948 (PL 80–547), as amended (16 U.S.C. 667b–667d); Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 471 et seq.); and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (40 U.S.C. 4601 et seq.).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) transfer of pertinent documents to authorized title companies or abstractors to obtain title evidence for closings; (b) transfer of pertinent documents to Regional Solicitors and the U.S. Department of Justice for title opinions and condemnation purposes; (c) for use of appraisal information in negotiations; (d) for permit and outgrant purposes; (e) reporting lands as excess to the General Services Administration for transfer or disposal. Disclosures outside the Department of the Interior may be made (1) to the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (4) to title companies or abstractors; (5) to the General Services Administration; (6) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Title File-in legal size binders. Case and Correspondence Files-in letter size file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Maintained with safeguards in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Title File-stored as permanent records in GSA records center. Case and Correspondence Files-maintained until case is closed, then retired to GSA records center and destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Cheif, Division of Realty, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquires regarding the existence of records shall be addressed to the System Manager, with respect to records located in the Washington office, and to regional directors, with respect to records located in the offices for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 260.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager with respect to records located in the Washington office, and to regional directors, with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Public records, other governmental contracts, community contacts, and named individuals.

INTERIOR/FWS–19

SYSTEM NAME:

Endangered Species Licensee System—Interior, FWS—19.

SYSTEM LOCATION:

(1) Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240;

(2) Regional Offices of the Fish and Wildlife Service (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request a license to import or export fish and/or wildlife or products thereof. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, date of birth, height, weight, color of hair and eyes, business phone number, occupation and social security number of individual requesting license. Businesses are identified by type, name and title and phone number of principal officer and State of incorporation, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Endangered Species Act of 1976 (16 U.S.C. 1538(d); 87 Stat. 884).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to identify licensees authorized to import or export fish and/or wildlife or products thereof. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a

statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) publication in the **Federal Register**, as required by law, (4) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in folders, and on computer media or printouts.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in segregated area secured by a locking device in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b) which exempts this System from the provisions of 5 U.S.C. 522a(c)(3) (d), (e)(1), (e)(4) (G), (H) and (I) and (f) and the portions of 43 CFR Part 2, Subpart D which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 50432 (October 29, 1975).

INTERIOR/FWS-20

SYSTEM NAME:

Investigative Case File System-Interior, FWS-20.

SYSTEM LOCATION:

(1) Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240;

(2) Regional Offices of the Fish and Wildlife Service (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of investigation relative to violation of fish and wildlife laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name and address, place and date of birth plus other available data identifying the subjects of investigation in violation of the fish and wildlife laws as well as other information incident to these investigations all of which carry criminal sanctions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Assault Act (18 U.S.C. 111), Bald Eagle Act (16 U.S.C. 668–668d), Black Bass Act (16 U.S.C. 851–856), Lacey Act (18 U.S.C. 42–44), National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–668ee), Migratory Bird Hunting Stamp Act (16 U.S.C. 718–718h), Migratory Bird Treaty Act (16 U.S.C. 703–711), Endangered Species Act (16 U.S.C. 1531–1543), Marine Mammal Act (16 U.S.C. 1361–1407), Upper Mississippi Refuge Act (16 U.S.C. 721–731), Bear River Refuge Act (16 U.S.C. 690), Fish and Wildlife Recreation Act (16 U.S.C. 460k–460k–4), Airborne Hunting Act (16 U.S.C. 742j), and Tariff Classification Act (19 U.S.C. 1527).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to include all investigative and enforcement information reported to and investigated by the Division of Law Enforcement, U.S. Fish and Wildlife Service. Disclosures outside the Department of the Interior may be made:

(1) To the U.S. Department of Justice when related to litigation or anticipated litigation;

(2) Of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license, (3) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer media or printouts.

RETRIEVABILITY:

Indexed by name.

SAFEGUARD:

Maintained in segregated area secured by a locking device in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the general exemption authority provided by 5 U.S.C. 552a(j)(2), Department of the Interior has adopted a regulation, 43 CFR 2.79(a), which exempts the system from all of the provisions of 5 U.S.C. 552a and the regulations in 43 CFR, Part 2, Subpart D, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), (11) and (i) of 5 U.S.C. 552a and the portions of the regulations in 43 CFR, Part 2, Subpart D implementing these subsections. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975). Under the specific exemption authority provided by 5 U.S.C. 552a(k), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) and the portions of 43 CFR, Part 2, Subpart D which implement these provisions. The reason for adoption of this regulation are set out at 40 FR 50432 (October 29, 1975).

INTERIOR/FWS-21

SYSTEM NAME:

Permits System—Interior, FWS-21.

SYSTEM LOCATION:

(1) Division of Law Enforcement, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

(2) Regional Offices of the Fish and Wildlife Service (See Appendix for addresses).

(3) Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for permits to conduct certain activities in areas of fish and wildlife. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, address, date of birth, height, weight, color of hair and eyes, business phone number, occupation and social security number of persons applying for permit. Business agencies and institutions are identified by type, name, title and phone number of principal officer and State of incorporation, if applicable. Contains information on location of the activity and a briefing of the type of the proposed activity. May also include the qualifications, education background and experience of the applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 668a, 16 U.S.C. 1539, 16 U.S.C. 704–711, 16 U.S.C. 1371, 18 U.S.C. 42–44, and 19 U.S.C. 1527.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

The primary use of the records is to identify holders of permits which authorize otherwise illegal activity having to do with fish and/or wildlife. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies, responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation order or license; (3) publication in the **Federal Register**, as required by law; (4) To provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and on computer media or printouts.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in segregated area secured by a locking device in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Law Enforcement, or Chief, Wildife Permit Office, U.S. Fish and Wildife Service, Washington, D.C. 20240.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts the system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) and the portions of 43 CFR, Part 2, Subpart D which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/FWS–24

SYSTEM NAME:

Payroll—Interior, FWS–24.

SYSTEM LOCATION:

Division of Finance, U.S. Fish and Wildlife Service, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All paid employees in the Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave and cost distribution records, including deductions for bonds, insurance, income taxes, allotments to financial institutions, overtime authorizations, and shift schedules.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) fiscal operations for payroll, leave, insurance, tax, retirement and cost programs; (b) disclosure to the Department of the Treasury for preparation of (1) payroll checks and (2) payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals; (c) disclosure to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (d) disclosure to the Civil Service Commission in connection with retirement, life insurance and health insurance accounts; (e) disclosure to another Federal agency to which an employee has transferred. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulations, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (6) to other Federal agencies to effect salary and administrative offset; and (7) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or

compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in folders and on computer media.

RETRIEVABILITY:

By employee social security number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

One year from date employee separates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Finance, U.S. Fish and Wildlife Service, Room 3347, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquires regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requested seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, and supervisors.

INTERIOR/FWS-25

SYSTEM NAME:

Contract and Procurement Records—Interior, FWS–25.

SYSTEM LOCATION:

(1) Division of Contracting and General Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. (2) Regional offices of Fish and Wildlife Service. (See Appendix for regional addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals submitting unsolicited proposals or replying to solicitations for bids. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information regarding the individual which would be required to evaluate contract proposals, i.e., name, age, education, experience, references, and possible other pertinent information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Act of 1949, as amended 40 U.S.C. 741–745; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–7421; 70 Stat. 1119.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is evaluation by contracting officers and technical representatives of operating (requesting) Division or Office placing name and address on bidders list for use in sending out future solicitations. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional Office made at the request of that individual, (4) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper form, in either the "Bidders Mailing List" file or a "Contract Folder".

RETRIEVABILITY:

By name and contract number.

SAFEGUARDS:

Records maintained in compliance with provisions of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Bidders Mailing List—until individual requests withdrawal or solicitation returned unanswered. Destroyed immediately. Contract Files: Four years after closing of file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Contracting and General Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, and regional directors (See Appendix for regional addresses).

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager, with respect to records located in the Washington Office, and to regional directors, with respect to records located in the office for which each is responsible. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the System Manager, with respect to records located in the Washington, Office and to regional directors, with respect to records located in the office for which each is responsible. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual submitting proposals for consideration.

INTERIOR/FWS-29

SYSTEM NAME:

Animal Damage Control Non-Federal Personnel Records—Interior, FWS—29.

SYSTEM LOCATION:

(1) Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; (2) regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

State employees, cooperative employees paid by a cooperator, and private corporation employees (in Idaho). The number of individuals covered are: State-159, Cooperative-221, Corporation-6 (in Idaho).

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Supervisor's Record or Employees (Non-Federal)—Recruitment forms, medical forms, security records, life and health insurance forms, military service records, motor vehicle exam records, education and skills records, training records, displicinary and suspension records, letters of commendation; (2) Payroll Records—Time and attendance records, State retirement records, social security records, workman's compensation insurance records, leave records, salary and expense cost records; (3) Travel Expense and Mileage Report; (4) Animal Damage Control Records—Hunter and trapper (district field assistant) records on animals taken, weekly itinerary and report of activity of trappers and hunters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426(b); Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 135–135); and Migratory Bird Treaty Act of 1981, as amended (16 U.S.C. 703–711; 40 Stat. 755).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The primary uses of the records are to (a) serve as a tool for the State supervisors in the financial and manpower management of Animal Damage Control programs (b) form the legal basis for the disbursement of funds and (c) forms basis for preparation of statistical reports. Disclosures outside the Department of the Interior may be made, (1) for administrative uses by cooperating Federal, State, county, and local governmental units, and cooperating private organizations and associations, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual, (5) to other Federal agencies to effect salary and administrative offsets; (6) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to a consumer reporting agencies to prepare a commercial credit report for use by the Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in folders in files.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Records and forms are maintained in a standard office filing cabinet and office is locked when authorized personnel are not present.

RETENTION AND DISPOSAL:

Non-record administrative material disposed 30 days after employment terminates or in compliance with State regulations on disposal of payroll records subject to audit.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding existence of records shall be addressed to the Chief, Division of Wildlife Management, with respect to records located in the Washington Office, or to regional directors with respect to records located in the office for which each is responsible. A written signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A written request for access signed by the requester shall be addressed to the appropriate State Supervisor. The request must meet the content requirement of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the Systems Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

[FR Doc. 83-32416 Filed 12-5-83; 8:45 am]

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Bureau of Land Management

Agency Forms Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, at (202) 395-7340.

Title: 43 CFR 4130.1, Grazing Preference Statement

Bureau Form Number: 4130-3

Frequency: Annually

Description of Respondents: Permittees or lessees authorized to graze livestock on the public lands

Annual Responses: 7,665

Annual Burden Hours: 1,794

Bureau Clearance Officer (alternate): Linda Gibbs (202) 653-8853

Dated: October 26, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-32400 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-84-M

Conveyance of Public Lands; Idaho

November 28, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), patents were issued to the following: Jay C. Mortensen and Kelly Gene Mortensen, Blackfoot, Idaho, for the following described public land:

Bingham County, Serial No. I-18532

Boise Meridian, Idaho

T. 2 S., R. 36 E.,
Sec. 15, NW¼SE¼.

Containing 40.00 acres.

Denzel R. Rowland, Mary S. Rowland, George A. Dehlmar, Sr., and Ruth M. Dehlmar, Hailey, Idaho, for the following-described public land:

Blaine County, Serial No. I-20201

Boise Meridian, Idaho

T. 2 N., R. 17 E.,
Sec. 34, SE¼NE¼SW¼NW¼, SW¼SE¼NW¼.

Containing 12.50 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83-32399 Filed 12-5 8:45 am]

BILLING CODE 4310-GG-M

Resource Management Planning Activity; Havre and Great Falls Resource Areas; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Resource Management Planning Activity in the Bureau of Land Management's Havre and Great Falls Resource Areas, Montana.

SUMMARY: A Resource Management Plan (RMP) will be prepared for the public lands within the Havre Resource Area and a portion of the Great Falls Resource Area, Lewistown District in Montana. The RMP will be based upon the existing statutory requirements and will meet the requirements of the Federal Land Policy and Management Act of 1976. The RMP and accompanying Environmental Impact Statement will guide management decisions within the Havre and Great Falls Resource Areas. The RMP and Environmental Impact Statement are scheduled for completion by September 30, 1987.

The geographic area covered by the planning effort is in northcentral Montana consisting of BLM administered public lands in Hill and Blaine Counties and that part of Chouteau County north of the Missouri River, all in the Havre Resource Area and in Glacier, Liberty,and Toole Counties in the Great Falls Resource Area.

The general type of issues to be addressed in the plan include land tenure adjustment, agricultural leasing, off road vehicle use, water rights, withdrawals, oil and gas leasing within the Upper Missouri Wild and Scenic River Corridor, fire suppression, areas of critical environmental concern, timber management, access, and possible coal development.

The disciplines involved in developing the plan will include wildlife biology, hydrology, soil science, range management, realty, forestry, geology, archaeology, visual resource management, recreation, economics, and sociology.

The public will be provided opportunity to comment on issues developed by BLM and to raise any new issues. As the planning process proceeds, the public will be invited to participate through workshops, open houses, and public hearings. A mailing list is being developed and will be used to solicit comments on plan development. All local, State and Federal officials who may be affected by the plan will be asked to participate throughout the planning effort. The Lewistown District Advisory Council and Grazing Advisory Board will be consulted throughout the planning process.

No public meetings or hearings have yet been set. Meetings and hearings will be announced in the Federal Register and local news media.

FOR FURTHER INFORMATION CONTACT: Area Manager, Havre Resource Area, Drawer 911, Havre, Montana 59501 or Area Manager, Great Falls Resource Area, 215 1st Ave. No., P.O. Drawer 2865, Great falls, Montana 59403.

Dated: November 28, 1983.

Glenn W. Freeman,

District Manager.

[FR Doc. 83-32398 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-DN-M

Montana; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the Provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease M 35124, Big Horn County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination, October 1, 1983.

No valid lease has been issued affecting the lands. The lessees have agreed to new lease terms for rentals and royaltes at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in sec. 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased royalty rates cited above, and reimbursement for cost of publication of this Notice.

Cynthia L. Embreston,

Chief, Fluids Adjudication Section.

[FR Doc. 83-32448 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 25, 1983. Purusant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 21, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Cullman County

Cullman, *Stiefelmeyer's*, 202 1st Ave. SE

Madison County

Huntsville, *Hutchens, W.T., Building (Downtown Huntsville MRA)*, 100—104 S. Jefferson St.

Mobile County

Mobile, *Davis Avenue Branch, Mobile Public Library*, 564 Davis Ave.

Mobile, *Fire Station No. 5*, 7 N. Lawrence St.

Mobile, *Vickers and Schumacher Buildings*, 707—709 and 711 Dauphin St.

ARKANSAS

Drew County

Monticello, *Lambert House*, 204 W. Jackson St.

Independence County

Batesville, *Batesville East Main Historic District*, Main St. between 7th and 11th Sts.

CONNECTICUT

Fairfield County

Ridgefield, *Weir, J. Alden, Farm (District)*, Nod Hill Rd. and Pelham Lane
Stratford, *Stratford Center Historic District*, Roughly bounded by E. Broadway, Ferry Blvd.,
Housatonic River, Connecticut Tnpke, Birdseye and Main Sts.

Hartford County

West Hartford, *Mount St. Joseph Academy*, 235 Fern St.

New London County

Norwich, *Norwich Town Hall*, Union St. and Broadway

GEORGIA

Colquitt County

Moultrie vicinity, *Coleman, James W., House*, GA 33

Mitchell County

Baconton vicinity, *Mount Enon Church and Cemetery*, Old Stage Coach Rd.

Walton County

Monroe, *Boss, A.J., House (Monroe MRA)*, 324 Edwards St.
Monroe, *Chick, Tom, House (Monroe MRA)*, 1102 E. Church St.
Monroe, *East Church Street Historic District (Monroe MRA)*, E. Church St. and S. Madison Ave.
Monroe, *East Marable Street Historic District (Monroe MRA)*, E. Marable St.
Monroe, *McDaniel Street Historic District (Monroe MRA)*, S. Broad and McDaniel Sts.
Monroe, *Monland Place Historic District (Monroe MRA)*, Alcova St. and Blvd.
Monroe, *Monroe City Hall (Monroe MRA)*, 227 S. Broad St.
Monroe, *Monroe Commercial Historic District (Monroe MRA)*, Spring and Broad Sts.
Monroe, *Monroe and Walton Mills Historic District (Monroe M R A)*, S. Broad St., S. Madison Ave., and Georgia R R Line
Monroe, *North Broad Street Historic District (Monroe M R A)*, N. Broad and Walton Sts.
Monroe, *South Broad Street Historic District (Monroe M R A)*, S. Broad St.
Monroe, *South Madison Avenue-Pannell Road Historic District (Monroe M R A)*, S. Madison Ave. and Pannell Rd.
Monroe, *Walton County Jail (Monroe M R A)*, 203 Milledge Ave.
Monroe, *Williamson House (Monroe M R A)*, 925 E. Church St.

INDIANA

Brown County

Nashville, *Taggart, F.P., Store*, Main and VanBuren Sts.

Henry County

Shirley vicinity, *Whitelock, Henry F., House and Farm*, IN 38

Marion County

Indianapolis, *Butler Fieldhouse (Hinkle Fieldhouse)*, Butler Unviersity campus, 49th St., and Boulevard Pl.
Indianapolis, *Independent Turnverein*, 902 N. Meridan St.

Putnam County

Stilesville vicinity, *McHaffie, Melville F., Farm*, US 40

St. Joseph County

South Bend, *O'Brien Electric Priming Company*, 2001 W. Washington St.

Vanderburgh County

Evansville, *Evansville Municipal Market*, 813 Pennsylvania St.

Wells County

Bluffton, *Grove, John A., House*, 521 W. Market St.

LOUISIANA

Caddo Parish

Shreveport, *Davidson House*, 654 Wichita Ave.

Calcasieu Parish

Lake Charles, *Episcopal Church of the Good Shepherd*, 715 Kirkman St.

Claiborne Parish

Arizona, *Arizona Methodist Church*, LA 806

East Baton Rouge Parish

Zachary, *Zachary Railroad Depot*, 4434 W. Central Ave.

Rapides Parish

Alexandria, *Bolton High School*, 2101 Vance Ave.

St. Landry Parish

Opelousas vicinity, *Lamorandier-Prudhomme-Jackson House*, Off U.S. 167

St. Tammany Parish

Madisonville, *Madisonville Bank*, 400 Cedar St.

MASSACHUSETTS

Berkshire County

North Adams, *St. Joseph's School*, Eagle St.

Franklin County

Greenfield, *Leavitt-Hovey House*, 402 Main St.

Middlesex County

Cambridge, *Homer-Lovell House (Cambridge M R A)*, 11 Forest St.
Lowell, *Worcester House*, 658 Andover St.

NORTH DAKOTA

Cass County

Fargo, *Cass County Court House, Jail, and Sheriff's House*, S. 9th St. between S. 2nd and 3rd Aves.

OKLAHOMA

Woods County

Alva, *Branson Building (Territorial Buildings in Downtown Alva TR)*, 531 Barnes St.
Alva, *Building at 405–407 College Avenue (Territorial Buildings in Downtown Alva TR)*, 405 College Ave.
Alva, *Building at 409 College Avenue (Territorial Buildings in Downtown Alva TR)*, 409 College Ave.
Alva, *Building at 413 College Avenue (Territorial Buildings in Downtown Alva TR)*, 413 College Ave.
Alva, *Building at 415 College Avenue (Territorial Buildings in Downtown Alva TR)*, 415 College Ave.
Alva, *Building at 500 Flynn Street (Territorial Buildings in Downtown Alva TR)*, 500 Flynn St.
Alva, *Building at 504 Flynn Street (Territorial Buildings in Downtown Alva TR)*, 504 Flynn St.
Alva, *Building at 519 Barnes Street (Territorial Buildings in Downtown Alva TR)*, 519 Barnes St.
Alva, *Building at 521 Barnes Street (Territorial Buildings in Downtown Alva TR)*, 521 Barnes St.
Alva, *Building at 523 Barnes Street (Territorial Buildings in Downtown Alva TR)*, 523 Barnes St.
Alva, *Central National Bank (Territorial Buildings in Downtown Alva TR)*, 401 College Ave.
Alva, *I.O.O.F. Hall (Territorial Buildings in Downtown Alva TR)*, 527 Barnes St.
Alva, *Kavanaugh and Shea Building (Territorial Buildings in Downtown Alva TR)*, 403 College Ave.

PENNSYLVANIA

Beford County

Bedford, *Bedford Historic District*, Roughly bounded by East, West, and Watson Sts., and the Juniata Branch of Juniata River

PUERTO RICO

San Juan County

Carolina, *Edificio Alcaldia*, Calle Ignacio Arzuaga, Esq. De Diego

VERMONT

Chittenden County

Shelburne, *Tracy, Lee, House*, U.S. 7

Washington County

Plainfield, *Allenwood Farm*, U.S. 2

WISCONSIN

Dane County

Madison, *Quisling Towers Apartments*, 1 E. Gilman St.

La Crosse County

La Crosse, *Powell Place*, 200–212 Main St.

Milwaukee County

Whitefish Bay, *Uihlein, Herman, House,* 5270 N. Lake Dr.

Taylor County

Medford, *Benn, J.W., Building (Medford Post Office),* 202–204 S. Main St.

Washburn County

Spooner vicinity, *Polson, Mrs. Richard, House,* N of Spooner

Waupaca County

Waupaca, *Shearer-Cristy House,* 315 E. Lake St.

[FR Doc. 83-32479 Filed 12-5-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 328]

Rail Carriers; Tank Car Mileage Allowance System; Investigation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement of Tank Car Allowance Update.

SUMMARY: The Interstate Commerce Commission postpones the deadline for the 1983 tank car allowance update from December 1, 1983 until 60 days from the date of service of a final decision on certain interim modifications to the tank car allowance formula, which were proposed in a decision and notice served November 4, 1983 (48 FR 51180, Nov. 7, 1983).

DATE: This action is effective December 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

This action will not significantly affect a substantial number of small entities, the quality of the human environment or energy consumption.

Authority: 49 U.S.C. 11122, 10747, 10321 and 10324(a) and 5 U.S.C. 553.

Decided: November 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Gradison did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-32423 Filed 12-5-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-79)]

Rail Service Abandonment; Seaboard System Railroad, Inc; New Hanover, Pender, Onslow, Jones and Craven Counties, NC; Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc., to abandon a portion of a line of railroad known as the New Bern Subdivision, extending from railroad milepost ACB–249.5 near Coastal, NC, to milepost ACB–330.17 at New Bern, NC, and to discontinue service over the Camp Lejeune Railroad from milepost ACD–294.8 at Jacksonville, NC, to milepost ACD–303.3 in New Hanover, Pender, Onslow, Jones and Craven Counties, NC. A certificate will be issued authorizing this abandonment and discontinuance unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-32424 Filed 12-5-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-898X)]

Rail Service Abandonment; Consolidated Rail Corp.; Bureau and Putnam Counties, IL; Exemption

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments.* The line to be abandoned is Conrail in Kankakee Branch between milepost 187.3 near Moronts and milepost 188.3 at Howe, a total distance of 1.0 miles in Bureau and Putnam Counties, IL.

Conrail has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Illinois has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 366 I.C.C. 91 (1979).

The exemption will be effective on January 5, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by December 16, 1983, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by December 28, 1983 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to Conrail's representative: Charles E. Mechem, Room 1138, Six Penn Center, Philadelphia, PA 19104.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 30, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-32425 Filed 12-5-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 18-83]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish two new system of records to be maintained by the Civil Division.

The "Freedom of Information/Privacy Acts File, JUSTICE/CIV-005" and the "Congressional and Citizen Correspondence File, JUSTICE/CIV-007" are new systems of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register.**

The public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on these systems. Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Department of Justice, Room 6314, 10th and Constitution Avenue, NW., Washington, D.C. 20530. Comments must be submitted on or before February 6, 1983.

A report of the proposed systems has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: November 16, 1983.

Kevin D. Rooney,

Assistant Attorney General for administration.

JUSTICE/CIV-005

SYSTEM NAME:

Freedom of Information/Privacy Acts File.

SYSTEM LOCATION:

Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of Civil Division records pursuant to the Freedom of Information Act (FOIA); persons who request access to or correction of records pertaining to themselves contained in Civil Division systems of records pursuant to the Privacy Act (PA); persons whose FOIA or PA requests for records have been referred to the Civil Division by another component of Department of Justice or another agency; persons who make general requests for information about FOIA and PA matters; where applicable, persons about whom records have been requested; and persons bringing civil suits pursuant to the FOIA and PA involving Civil Division records.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The main record of the system consists of files pertaining to each FOIA and PA request processed by the Civil Division. The files contain copies of all correspondence and memoranda relating to FOIA and PA requests and related records necessary to process and respond to requests, and to defend Civil suits brought pursuant to the FOIA and PA. Requests may be assigned numbers in sequential order with reference to the date of receipt; (2) Alphabetical and numerical indices are utilized as a means of access to the proper file by cross-referencing the name of the requester and the date of final response. Form CIV-209 is used in these indices; (3) An automated record of selected data which has been extracted from each case file is maintained on magnetic diskettes as an index to the files, to follow the progress of the requests, and to obtain statistical data for monthly and annual reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice including the FBI and the United States Attorneys' Offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice. A record maintained in this system may be disseminated as a routine used of each record as follows: (1) In the course of processing an FOIA or PA request, the record may be disseminated to any appropriate federal, state, local or foreign agency for the purpose of permitting a decision as to access to documents, corrections or amendment or for consultation as to the propriety of access to documents, correction or amendment; (2) a record relating to a case or matter may be disseminated in an appropriate federal court in accordance with established constitutional, substantive, or procedural law or practice; and (3) a record relating to a case or matter that has been referred by an agency, or that involves a case or matter within the jurisdiction of an agency or where the agency or officials thereof are parties to litigation, or where the agency or officials thereof may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be available to a Member of Congress or staff acting upon the Member's behalf when the Member of staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The request files are stored within manilla file folders, within metal file cabinets. The alphabetical index cards are retained in standard card-file boxes. Automated records are maintained on magnetic diskettes.

RETRIEVABILITY:

The files are retrievable by the date of final response. The date of final response can be ascertained from the alphabetical index cards if the last name of the requester is known. Automated records can be retrieved by the request number or by the requester's name.

SAFEGUARDS:

Information maintained in the system is unclassified. The material is maintained in a room which is adjacent to office personnel and locked at night.

RETENTION AND DISPOSAL:

When a FOIA or PA matter is closed, it is filed in alphabetical order by last name and date of final response. After the designated period has passed in accordance with the authorized Record Disposal Schedule for the classification of the case, the file is destroyed in accordance with the General Record

Schedule 14, items 16, et seq. and 25, et seq.

SYSTEM MANAGER AND ADDRESS:

Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above, c/o FOI/PA Office. The envelope and letter should be clearly marked, "FREEDOM OF INFORMATION/PRIVACY ACTS REQUEST."

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and letter clearly marked "FREEDOM OF INFORMATION/PRIVACY ACTS REQUEST." The requester shall also provide a return address for transmitting the information. Access requests shall be directed to the system manager listed above, c/o the FOI/PA Office.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct a request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. The envelope and letter should be clearly marked "FREEDOM OF INFORMATION/PRIVACY ACTS REQUESTS."

RECORD SOURCES CATEGORIES:

The source of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Civil Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Justice/CIV-007

SYSTEM NAME:

Congressional and Citizen Correspondence File.

SYSTEM LOCATION:

Civil Division, U.S. Department of Justice, 10th and Constitution Ave., NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current and past members of Congress who correspond with the Department on civil and other related matters; and (2) Private individuals who correspond with the Department on civil and other related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The main record of the system consists of files containing copies of letters and attachments transmitted by the individuals and members of Congress together with copies of Civil Division responses to these letters; (2) Alphabetical indices are utilized as a means of access to the proper file by cross-referencing the name of the correspondent and the date of final response. Form CIV-209 is used in these indices; and (3) An automated record of selected data which has been extracted from each request file is maintained on magnetic diskettes as an index to the files, to follow the progress of the correspondence, and to obtain statistical data for monthly and fiscal reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file will be used by Civil Division personnel to assure adequate response to initial and subsequent contacts by the same individuals or other contacts regarding the same subject. A record may be referred to other federal or state and local agencies, only if deemed appropriate to assure complete action on the matter.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in looseleaf notebooks in bookcases, or within manila file folders within file cabinets and storage boxes. The alphabetical index cards are retained in standard card-file boxes. Automated records are maintained on magnetic diskettes.

RETRIEVABILITY:

The files are retrievable by date of final response. The alphabetical index cards are filed by the last name of the correspondent. Automated records can be retrieved by the last name of the correspondent.

SAFEGUARDS:

Information contained in the system is unclassified. The files are maintained in a room that is occupied by office personnel during the day and locked at night.

RETENTION AND DISPOSAL:

In accordance with the General Record Schedule 14, the file is retained for one year after final response or one year after completion of any project, after which the files are destroyed.

SYSTEM MANAGER AND ADDRESS:

Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above, c/o FOI/PA Office. The envelope and letter should be clearly marked, "FREEDOM OF INFORMATION/PRIVACY ACTS REQUEST."

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and letter clearly marked, "FREEDOM OF INFORMATION/PRIVACY ACTS REQUEST." The requester shall also provide a return address for transmitting the information. Access requests shall

be directed to the system manager listed above, c/o the FOI/PA Office.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct a request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. The envelope and letter should be clearly marked, "FREEDOM OF INFORMATION/PRIVACY ACTS REQUEST."

RECORD SOURCE CATEGORIES:

Sources of information maintained in the system are congressional and citizen correspondents.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-32417 Filed 12-5-83; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-13,980; 14,399 and 14,423]

Republic Steel Corp., et al.; Affirmative Determination Regarding Application for Reconsideration

By an application dated November 8, 1983, an official of Republic Steel requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers of the General Offices in Cleveland, Ohio, the Research Center in Independence, Ohio and the District Sales Office in Pittsburgh, Pennsylvania of the Republic Steel Corporation. The determination was published in the **Federal Register** on September 2, 1983 (48 FR 40021).

The application for reconsideration claims since the Department issued its denial for the instant workers the Department has issued additional certifications of eligibility at Republic Steel plants in Cleveland, Ohio (TA-W-14,519) and Chicago, Illinois (TA-W-14,400). The company claims that these certifications when coupled with previous certifications at Youngstown (TA-W-13,408) Warren and Niles (TA-W-13,938) and Massillon (TA-W-13,597) indicate that workers at a significant proportion of the Company's production facilities do meet the statutory criteria for certification.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therfore, granted.

Signed at Washington, D.C., this 29th day of November 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 83-32492 Filed 12-5-83; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-14,401; 14,402]

Warner & Swasey Co. Turning Machine Division, Solon, Ohio; Cleviand, Ohio Amended Certification Regarding Eligibility To Apply for Worker Adjustement Assistance

According to section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a certification of eligibility to apply for worker adjustment assistance on September 28, 1983 to workers of Warner & Seasey Company, Turning Machine Division, Solon and Cleveland, Ohio under petition numbers TA-W-14,401 and TA-W-14,402. The Notice of Certification was published in the **Federal Register** on October 14, 1983 (48 FR 46870).

Based on a request from the International Association of Machinists and Aerospace Workers for a change in the April 1, 1983 impact date established in the certification, findings in the investigation were reviewed to determine if there was sufficient information and data to support a change in the impact date. Upon request, Warner & Swasey Company provided additional information which showed that orders were placed overseas for the WSC-8" turning machine in January 1983 and that layoffs occurred in the period from January 1, 1983 to April 1, 1983. Domestic production of the WSC-8" turning machine terminated in October 1983.

"All workers of Warner & Swasey Company at the Solon and Cleveland, Ohio plants engaged in employment related to the production of WSC-8" and WSC-12" turning machines who became totally or partially separated from employment on or after January 1, 1983 and before November 30, 1983 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 28th day of November 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83-32491 Filed 12-5-83; 8:45 am]
BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on December 15-17, 1983, in Room 1046, 1717 H Street, NW., Washington, D.C. Notice of this meeting was published in the **Federal Register** on November 29, 1983.

The agenda for the subject meeting will be as follows:

Thursday, December 15, 1983

8:30 A.M.-8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.-12:00 Noon: Integrity of Primary System Piping (Open)—The members will hear and discuss the report of its subcommittee and presentations by representatives of the NRC Staff regarding corrective action related to pipe cracking in BWR primary system piping. Representatives of nuclear industry will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1:00 P.M.-2:00 P.M.: Activities of NRC Office of Nuclear Materials Safety and Safeguards (Open)—The members will hear and discuss a presentation by the Director, NMSS, regarding NMSS activities.

2:00 P.M.-3:30 P.M.: Human Factors Considerations (Open)—The Committee will hear and discuss the report of its Subcommittee regarding NRC Staff activities related to consideration of human factors in the design and operation of nuclear power plants. Proposed changes in related NRC rules and regulatory guides, as well as the U.S. Nuclear Regulatory Commission Human Factors Program Plan (NUREG-0985) and research activities, will also be discussed.

3:30 P.M.-4:15 P.M.: Qualification of Safety-Related Equipment (Open)—The members will hear and discuss the

report of its subcommittee regarding proposed NRC requirements for qualification of electrical equipment important to safety in nuclear power plants.

4:15 P.M.–4:45 P.M.: Quality Assurance (Open)—The members will hear and discuss the report of its subcommittee on NRC Regulatory Guide 1.28, Quality Assurance Program Requirements (Design and Construction) and related quality assurance activities.

4:45 P.M.–5:45 P.M.: Standards for Protection Against Radiation (Open)—The members will discuss proposed Committee comments regarding proposed NRC changes to 10 CFR Part 20, Standards for Protection Against Radiation.

Friday, December 16, 1983

8:30 A.M.–9:30 A.M.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS Subcommittee activities and proposed full Committee activities.

9:30 A.M.–10:30 A.M.: Consideration of Severe Accidents (Open)—The members will hear and discuss a report by representatives of the NRC Staff regarding the proposed decision-making process for consideration of severe nuclear power plant accidents.

10:30 A.M.–12:00 Noon: Diablo Canyon Nuclear Power Plant (Open)—The members will hear and discuss a report by representatives of the NRC Staff regarding the IDVP for this facility and NRC activities related to licensing of the plant for operation.

12:00 Noon–12:45 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss reports regarding Subcommittee activities related to safety-related matters including hydrodynamic forces in nuclear power plants, preparation of the annual ACRS report to the U.S. Congress on the NRC Safety Research Program, and the proposed DOE Guidelines on recommending nuclear waste repository sites.

1:45 P.M.–2:45 P.M.: Nuclear Power Plant Operating Experience (Open)—The members will hear and discuss a report by representatives of NRC regarding malfunctions of commercial type eletrical equipment in nuclear power plants.

2:45 P.M.–3:45 P.M.: Decentralization of NRC Activities (Open)—The members of the Committee will hear and discuss the report of its Subcommittee regarding proposed decentralization of reactor licensing activities.

3:45 P.M.–5:30 P.M.: ACRS Reports to NRC (Open)—The Committee members will discuss proposed ACRS reports to the NRC regarding items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being discussed.

Saturday, December 17, 1983

8:30 A.M.–9:00 A.M.: Selection of ACRS Officers (Closed)—The members will discuss the qualification of members proposed as nominees for ACRS Officers for FY 1984.

This portion of the meeting will be closed to discuss matters that involve internal personnel rules and practices of the agency.

9:00 A.M.–12:30 P.M. and 12:30 P.M.–2:30 P.M.: ACRS Reports to the Nuclear Regulatory Commission (Open)—The members will discuss proposed ACRS reports to the NRC.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being discussed.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1982 (48 FR 44291). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major incovenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)) and information that involves the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. e.s.t.

Dated: November 30, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-32478 Filed 12-5-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 537; Docket No. A84–4]

Post Office Closings Petitions for Appeal; Silver Bell, Arizona

In the matter of: Silver Bell, Arizona 85270, (Mr. and Mrs. Dennis A. Tinsley, Petitioners), Docket No. A84–4.

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued: November 29, 1983.

Docket Number: A84–4
Name of Affected Post Office: Silver Bell, Arizona 85270
Name(s) of Petitioner(s): Mr. and Mrs. Dennis A. Tinsley
Type of Determination: Closing
Date of Filing of Appeal Papers: November 21, 1983
Categories of Issues Apparently Raised:

1. Effect on Community Served by Office [39 U.S.C. 404(b)(2)(A)].
2. Economic Savings [39 U.S.C. § 404(b)(2)(D)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before December 6, 1983.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

November 21, 1983—Filing of Petition
November 29, 1983—Notice and Order of Filing of Appeal
December 16, 1983—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
December 27, 1983—Petitioners' Participant Statement or Initial Brief [*see* CFR 3001.115 (a) and (b)].
January 16, 1984—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
January 31, 1984—(1) Petitioners' Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)].
February 7, 1984—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].
March 20, 1984—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 83-32445 Filed 12-5-83; 8:45 am]

BILLING CODE 7715-01-M

[Order No. 538; Docket No. A84-3]

Post Office Closings; Petitions for Appeal; S. Bloomingville, Ohio

In the matter of: S. Bloomingville, Ohio 43152 (Mrs. Norma Coakley, Petitioners), Docket No. A84-3.

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued: November 29, 1983.

Docket Number: A84-3
Name of Affected Post Office: S. Bloomingville, Ohio 43152
Name(s) of Petitioner(s): Mrs. Norma Coakley
Type of Determination: Closing
Date of Filing of Appeal Papers: November 21, 1983
Categories of Issues Apparently Raised:
1. Effect on Regular Postal Services [39 U.S.C. 404(b)(2)(C)]

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before December 6, 1983.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

November 21, 1983—Filing of Petition
November 29, 1983—Notice and Order of Filing of Appeal
December 6, 1983—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
December 16, 1983—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
December 27, 1984—Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].
January 16, 1984—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
January 31, 1984—(1) Petitioners' Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)].
February 7, 1984—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].
March 20, 1984—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 83-32444 Filed 12-5-83; 8:45 am]

BILLING CODE 7715-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting

Notice is hereby given of a meeting of the Prospective Payment Assessment Commission scheduled for Monday, December 19, 1983. The meeting will begin at 8:30 a.m., at 330 Independence Avenue, S.W., Washington, D.C., The Secretary's Conference Room, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Adjournment

Stuart Altman,

Chairman, Prospective Payment Assessment Commission.

[FR Doc. 83-32621 Filed 12-5-83; 9:29 am]

BILLING CODE 1630-02-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

AGENCY CLEARANCE OFFICER: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Rule 17a-2
No. 270-189

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has applied for an extension of OMB approval of Rule 17a-2 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) which concerns recordkeeping and other requirements by broker-dealer participants in a distribution of securities. The respondents are broker-dealers who manage, or participate in, a syndicate or group that distributes securities which are stabilized pursuant to Rule 10b-7 under the Securities Exchange Act of 1934. Rule 17a-2 requires the manager of a syndicate or group to retain in a separate file certain information relating to stabilizing purchases of the security being distributed. In addition, the Rule requires syndicate managers to notify broker-dealer participants in the distribution of the date and time of the initial stabilizing transaction and the termination of stabilization.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, 202-395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: November 28, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-32582 Filed 12-5-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20429; SR-AMEX-83-23]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 30, 1983.

The American Stock Exchange, Inc. ("AMEX") 86 Trinity Place, New York, NY 10006, submitted on October 6, 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 revise the wording of Amex's Option Disclosure Document delivery rule. The

new rule will make clear that members are required to furnish customers with the stock index option supplemental disclosure document at or prior to the time a customer engages in a stock index option transaction.

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. 20283, October 13, 1983) and by publication in the **Federal Register** (48 FR 48734, October 20, 1983). 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. 83-32500 Filed 12-5-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13650; 812-5683]

CIGNA High Yield Fund, Inc., and CIGNA Securities, Inc.; Filing of Application

November 30, 1983.

Notice is hereby given that CIGNA High Yield Fund, Inc., ("Fund") P.O. Box 7728, Philadelphia, PA 19101, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and CIGNA Securities, Inc. ("Applicants"), Hartford, CT 06152, filed an application on October 21, 1983, for an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 22(d) of the Act to permit (i) the inclusion of certain accumulated annuity values in determining the applicable sales load for purchases of Fund shares where rights of accumulation, statements of intention, or aggregation of amounts invested are employed, (ii) the no-load sale of Fund shares where the purchase payments represent transfers of certain accumulated annuity values and (iii) the application of amounts payable under insurance contracts issued by Connecticut General Life Insurance Company ("CG Life") to the purchase of Fund shares at a reduced sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of applicable sections.

According to the application, the Fund is an open-end, diversified, management investment company organized as a Maryland corporation by INA Corporation ("INA") under the name INA High Yield Fund, Inc. On March 31, 1982, INA and Connecticut General Corporation combined to form CIGNA Corporation ("CIGNA") and the name of the Fund was changed to CIGNA High Yield Fund, Inc. by shareholder vote on April 22, 1983. CIGNA Investment Management Company ("CIGNA Management"), an indirect subsidiary of CIGNA, serves as the Fund's investment adviser. CIGNA Securities, Inc. ("CIGNA Securities"), an affiliate of CIGNA Management, is the Fund's principal underwriter and distributor.

Shares of the Fund are publicly offered at their net asset value plus a sales charge. The sales charge varies depending on the amount invested and ranges from 7½% of the public offering price on purchases of less than $10,000 to a minimum of 1% of the public offering price on purchases of $1,000,000 or more.

Applicants state that a significant portion of the Fund's sales involved tax qualified accounts ("Retirement Plans"). The application states that CG Life sells fixed group annuity products in conjunction with shares of the Fund as alternative or complimentary funding vehicles for Retirement Plans. The annuity and shares of the Fund are sold with an identical sales load. Retirement Plans which split their assets between the fixed annuities and shares of the Fund will pay a higher sales load than a Retirement Plan which allocates all of its investment either to annuities or to shares of the Fund. According to the application, the higher sales load is due to applicable break points in the sales load structure and the inability of the Fund to consider values accumulated in annuities for purposes of the right of accumulation, a statement of intention, or the right of aggregation in determining the sales load on purchase of the Fund's shares.

Applicants asset that a reduced sales load should be available to a Retirement Plan which chooses to split its investment between shares of the Fund and the fixed annuities. Applicants submit that a reduced sales load should be available through the rights of accumulation and aggregation and statements of intention which are utilized by fund complexes pursuant to Rule 22d-1. Applicants assert that because Retirement Plans use annuity contracts and shares of the Fund as alternative funding vehicles, only one sales effort is used to sell the package instead of a separate sales effort for each investment vehicle. Applicants assert that the cost of selling and servicing a package purchased by one individual is less than the cost of selling and servicing the components of a package purchased by different individuals.

Applicants seek authority to permit the no-load purchase of Fund shares with amounts transferred from accumulated annuity values. The Fund seeks to charge one sales load against present and future allocations of Retirement Plan assets to shares of the Fund, shares of certain mutual funds managed by CIGNA Management or CG Life annuities. Applicants assert that this transfer of assets will occur as a result of changes in a Retirement Plan's investment objectives and not as a result of any selling effort. Applicants further assert that requiring a sales load under these circumstnaces places an unnecessary burden upon fiduciaries who should be given as much flexibility as possible in allocating assets during the life of the Retirement Plan. Finally, Applicants assert that permitting the no-load purchase of Fund shares with annuity cash values will assure that salesmen do not churn accounts in order to generate sales commissions.

According to the application, the CG Life annuities will contain features which will discourage speculation and extreme shifts between the CG Life annuities and the Fund. Applicants state that under the CG Life annuity contract only 15% of the annuities account value can be withdrawn in any year without penalty to purchase Fund shares. Applicants state that, consistent with the Act, no restrictions are placed on the purchase or redemption of Fund shares, and salesmen will not receive any compensation in advising or handling asset reallocations between the Fund and CG Life annuities. Applicant further states that all the restrictions noted above are part of the CG Life annuities, which are regulated by state insurance departments and subject to different regulatory requirements and objectives than the Fund.

Applicants undertake to implement certain safeguards intended to eliminate any possibility of abuse arising out of the proposed transactions. Applicants represent that annual Fund prospectuses

will disclose the applicable sales loads and existence of a transfer privilege to holders of certain CG annuities. Applicants further represent that all requests for reallocation of Retirement Plan assets will be accepted only after a request form has been signed by the Retirement Plan fiduciary and sent to CIGNA Securities. Finally, Applicants represent that all requests for reallocation of assets will be subject to CIGNA Securities' routine "compliance check" which includes an examination of whether transfers of assets are handled properly, and which helps to assure that the lowest possible sales load is applied against each purchase of Fund shares.

Applicants seek authority to permit the application of amounts payable under insurance contracts issued by CG Life to the purchase of Fund shares at a reduced sales load. The insurance proceeds would include death benefits from insurance policies, the maturity value of an endowment contract, the cash surrender value of fixed dollar life insurance and annuity contracts and lump sum cash options available to beneficiaries. According to the application, the premiums on CG Life insurance contracts which will be the source of the insurance proceeds will already have been subject to certain sales charges. Applicants represent that the cost of selling Fund shares to CG Life insurance beneficiaries is less than the cost of selling Fund shares to individuals that have never been "introduced" to the Fund. If the requested relief is granted the sales load would range from 5.25% of the offering price for purchases of less than 10,000 to .70% of the offering price for purchases of $1,000,000 or more. Applicants assert that the reduced charges reflect the reduced cost of selling Fund shares to individuals purchasing the shares with insurance proceeds.

Notice if further given that any interested person wishing to request a hearing on the application may, not later than December 27, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-32501 Filed 12-5-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23140; 70-6930]

Consolidated Natural Gas Co., et al.; Proposed Intrasystem Financing

November 30, 1983.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, a registered holding company and its subsidiary companies, CNG Producing Company ("Producing Company"), Consolidated Gas Supply Corporation ("Supply Corporation"), The East Ohio Gas Company ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), and West Ohio Gas Company ("West Ohio"), have filed an application-declaration with this Commission pursuant to Sections 6, 7, 9, 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 42(b)(2), 45, and 50(a)(3) promulgated thereunder.

Applicants-declarants propose to continue an intrasystem procedure, previously authorized and extended by the Commission (HCAR Nos. 22327 and 22804), designed to use effectively within the System excess cash temporarily accumulated by the subsidiaries. Consolidated holds subsidiary long-term notes and maintains open account advances for the benefit of its subsidiaries. The procedure includes the temporary prepayment of such notes by the subsidiaries as excess cash accumulates and the making of cash advances by Consolidated as required for operations by each subsidiary. It is proposed that the subsidiaries make temporary prepayments from excess cash funds, from time to time prior to December 31, 1984, not exceeding at any one time: $75 million by East Ohio, $15 million by Peoples, $10 million by Producing Company, $50 million by Supply Corporation, and $3.5 million by West Ohio (in the aggregate, $153.5 million).

Long-term notes temporarily prepaid would be those bearing the highest interest rate outstanding at the time of prepayment. Interest on a note would cease upon prepayment and start again upon reinstatement. As funds are required by a subsidiary for corporate purposes, including construction, advances would be made on open account in an aggregate amount not to exceed the amount of long-term notes previously prepaid by each subsidiary, less any notes which matured subsequent to the prepayment dates. The open account advances will bear interest at the same rate or rates as borne by the equivalent principal amount of notes previously prepaid by such subsidiary but in reverse order to that of the prepayments. Interest accrues from date of advance and becomes due on June 30 and December 31, 1984, or on the date such advances are repaid by the reinstatement of prepaid notes.

Open account advances would be increased or decreased depending on the cash flow of the subsidiary. At no time will the advances outstanding be in excess of the notes prepaid. At such time as the open account advances equal the aggregate amount of the prepaid notes, or in any event not later than December 31, 1984, the notes prepaid by a subsidiary will be reinstated in repayment of the related outstanding open account advances. If the aggregate of the notes prepaid exceeds such advances at the end of 1984, Consolidated proposes to make cash repayment of the difference in order to effect reinstatement of the notes in full. No financing of any subsidiary, presently or subsequently authorized by the Commission in connection with construction or gas storage programs, will be consummated until such time as advances have been made in an amount equal to the amount of notes prepaid.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing and will receive a copy of any notice or order issued. After said date, the application-declaration, as then amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-32499 Filed 12-5-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20425; File No. 4-256]

Institutional Networks Corp., and National Association of Securities Dealers, Inc.; Hearing and Order Extending Temporary Stay

November 30, 1983.

The Securities and Exchange Commission is announcing that on December 14, 1983, the Commission will hold a public hearing for collecting information regarding certain technical aspects pertaining to a proceeding instituted by the Institutional Networks Corporation ("Instinet") pursuant to Section 11A(b)(5) of theSecurities Exchange Act of 1934 ("Act") ("Instinet Proceeding").[1] The Commission also is extending the temporary stay granted to Instinet from December 31, 1983 until March 31, 1984.

Background

On July 15, 1983, Instinet filed a petition with the Commission pursuant to Section 11A(b)(5) of theAct seeking review of proposed fees of the National Association of Securities Dealers, Inc. ("NASD") for quotation information in National Market System ("NMS") Securities.[2] Instinet stated its belief that such fees were a denial of access to services provided by the NASD as an exclusive processor of securities information.

On August 16, 1983, the Commission issued an order holding that the proposed fees constituted a prohibition or limitation on access to services and instituted a proceeding to determine whether the prohibition or limitation on access to services was inconsistent with the provisions of the Act. The Commission also solicited comments addressing issues raised in the proceeding and requested the NASD to submit data pertaining to the cost of providing quotation information in NMS Securities by September 15, 1983.[3] The order also granted Instinet conditional interim relief so that Instinet could begin receiving quotations in NMS Securities during the pendincy of the Commission's review of the Instinet Proceeding.[4] Finally, the Commission issued an order instituting proceedings to determine whether to approve or disapprove the NASD's filing that proposed the fees in question.[5]

On September 27, 1983, the NASD responded to the Commission's request for cost data [6] by submitting the financial statements of NASDAQ, Inc. for the past five years and disclosing some of NASDAQ's present policies for determining and allocating costs associated with the NASDAQ System as well as the relationship between NASDAQ, Inc. and other NASD affiliates.[7]

On October 19, 1983, the NASD filed a notion with the Commission to terminate the Instinet Proceeding.[8] While noting that Instinet currently was receiving access to quotation information in NMS Securities, the NASD argued that the legislative history, as well as practical considerations, required that the proposed fees be reviewed either under Sections 15A or 19 of the Act as opposed to Section 11A(b)(5).

Thereafter, on October 31, 1983, the NASD submitted certain data requested by the Commission, and stated that certain other data requested by the Commission's October 6th letter, concerning allocating costs within the NASDAQ System could not be obtained due to the nature of the NASDAQ System.[9] In light of those difficulties, the NASD requested that the Commission authorize a special hearing for a presentation concerning technical aspects of the NASDAQ System. The NASD also noted certain statements in the October 6th letter that indicated the NASD to be in competitive position with Instinet and requested the Commission to delineate the nature of competition that NASDAQ is engaging in with Instinet. Finally, the NASD raised concerns with respect to the nature of Instinet's business and requested the Commission to direct Instinet to make a number of disclosures to the record including its corporate structure and the composition of the charges it imposes for its services.[10]

Discussion

With respect to the NASD's motion to dismiss the Instinet Proceeding, the Commission believes that Instinet should have an opportunity to respond prior to the Commission's action on the motion. Accordingly, the Commission requests Instinet, and any other interested parties, to submit any response they may have to that motion by January 15, 1984.

With respect to the NASD's request for a hearing, the Commission had determined to grant the NASD's request as a means of obtaining technical information necessary to resolve certain issues underlying the Instinet Proceeding. In this regard, the Commission announces that it had authorized the Division of Market Regulation to hold a public hearing on December 14, 1983 to receive information on the NASDAQ System as well as other factual information that any party desires to present.[11]

With respect to the temporary stay granted to Instinet, the Commission notes that the stay will expire on December 31, 1983. Because the Commission anticipates that the Proceeding will not be concluded by December 31, 1983, and because the Commission continues to believe that it is appropriate for Instinet to receive interim relief during the pendency of the Proceeding, the Commission has determined to extend the temporary stay from December 31, 1983, until March 31, 1984, or ten business days

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[1] *See* Securities Exchange Act Release No. 20088 (August 16, 1983), 48 FR 38124 ("order instituting the proceedings").

[2] *See* SR-NASD-83-13, Securities Exchange Act Release No. 19884 (June 17, 1983), 48 FR 29086.

[3] *See* letter to Frank J. Wilson, Executive Vice President and General Counsel, NASD, from Douglas Scarff, Director, Division of Market Regulation, dated August 18, 1983.

[4] For further information concerning the issues relating to the Instinet Proceeding and the terms of the interim relief, *see* the order instituting the proceedings, note 1, *supra*.

[5] *See* Securities Exchange Act Release No. 20089 (August 16, 1983), 48 FR 38131.

[6] *See* Letter to Douglas Scarff, Director, Division of Market Regulation, from Frank J. Wilson, Executive Vice President and General Counsel, NASD, dated September 27, 1983 ("NASD's September 27th Submission").

[7] The Commission informed the NASD that the NASD's September 27th submission was a useful first step in evaluating the NASD's proposed fees and Instinet's petition, but requested that the NASD provide more detailed data in a number of areas, including a break-down of the costs of collecting and storing quotation information, and disclosing the exact nature of the services provided by the NASD. *See* letter to Frank J. Wilson, Executive Vice President and General Counsel, NASD, from Richard G. Ketchum, Associate Director, Division of Market Regulation, dated October 6, 1983 ("October 6th letter").

[8] *See* letter and attached motion to George A. Fitzsimmons, Secretary, SEC, from Frank J. Wilson, Executive Vice President and General Counsel, NASD, dated October 19, 1983.

[9] *See* letter to Richard G. Ketchum, Associate Director, Division of Market Regulation, from Frank J. Wilson, Executive Vice President and General Counsel, NASD, dated October 31, 1983.

[10] Although the Commission does not believe that the nature of Instinet's business is relevant to a review of the NASD's proposed fees, the Commission has provided the NASD certain information in the public file regarding Instinet's present business operations. The Commission does not believe that any further action on the NASD request is appropriate at this time.

[11] For information in the hearing, *see infra*.

following the conclusion of the proceedings (whichever is earlier) reviewing the NASD's proposed fees. The interim relief provided during the extension of the stay shall be governed by the terms delineated in the Commission's original order granting the stay, and all money paid into escrow as of December 31, 1983, shall remain in escrow until the Commission orders otherwise or until the parties agree otherwise.

The Commission also is extending the comment period on the Instinet Proceeding until January 15, 1984 to give commentators an opportunity to comment on the information received by the Commission in the December 14, 1983 hearing. Six copies of each comment letter should be submitted, addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. 4–256. All such communications will be placed in the file and will be available for public inspection.

Order

Accordingly, the Commission hereby issues an order, pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*, as amended by Pub. L. No 94–29 (June 4, 1975)] and particularly Sections 2, 3, 11, 11A, 15, 15A, 19, 22 and 23 thereof [15 U.S.C. 78b, 78c, 78k, 78k–1, 78o, 78o–1, 78s, 78v, 78w] as follows:

It is hereby ordered that the Commission's order, dated August 16, 1983 (Securities Exchange Release No. 20088, 48 FR 38124) instituting a proceeding pursuant to Section 11A(b)(5) of the Act and granting a temporary stay is amended to extend the stay from December 31, 1983 until March 31, 1983. The terms and conditions of the stay remain unchanged.[12] In addition, it is ordered that a public hearing be held with respect to factual matters relevant to the issues raised in the Instinet Proceeding.

Information Pertaining to Public Hearing

A public hearing, pursuant to the provisions of Section 11A(b)(5) of the Act, will be held at 1:30 p.m. on December 14, 1983, in Room 5059 at the Home Office of the Commission, 450 5th Street, NW., Washington, D.C. Parties, their representatives and their witnesses appearing at the hearing will be permitted to give a brief oral presentation. The hearing officer and members of the Commission staff intend to question persons appearing at the hearing, and, in order to allow sufficient time for these inquiries, initial oral presentations by each party will be limited to one hour. To aid the Commission staff in formulating its inquiries, the NASD is requested to forward to the Commission and Instinet a written statement concerning the matters it desires to raise in the hearing at least two business days in advance of the hearing. If Instinet desires to make an oral presentation on factual matters other than technical aspects of the NASDAQ System, it also should forward to the Commission and the NASD a written statement on such matters two business days in advance of the hearing.[13] All oral statements from parties and witnesses will be taken under oath or affirmation.

For the purpose of the hearing, it is ordered that William E. Toomey, Special Counsel, Division of Corporate Finance, be, and hereby is, designated hearing officer to preside over such hearing, to administer oaths and affirmations, to take evidence, to require production of any books, papers and other records deemed relevant or material to the inquiry and to perform such other duties in connection therewith as prescribed by law.

Any interested person who desires information with respect to the hearing should notify Michael J. Simon, Senior Special Counsel, Division of Market Regulation, at (202) 272–2405 or in writing at 450 5th Street NW., Washington, D.C. 20549.

Prior to or during the hearing, any person may submit written questions to be directed to a particular witness or group of witnesses; but the presiding officer will determine in his sole discretion whether or to what extent to direct those questions to any witness.

By the Commission.

George A. Fitzsimmons,

Secretary.

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BILLING CODE 8010-01-M

[12] One term of the stay allows Instinet to decline to accept the stay as conditioned by the Commission. If Instinet determines not to continue to accept the quotation information before the termination of this proceeding, Instinet shall pay in to excrow all money then due, and the entire escrow account shall not be paid to either party until ordered by the Commission or until the parties agree otherwise.

[13] Instinet, if it desires, also may submit a written statement on the technical aspects of the NASDAQ System two business days in advance of the hearing. Failure to make such a submission, however, will not prevent Instinet from making an oral presentation on the matter.

[Rel. No. 20428; SR-NASD-83-22]

National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 30, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 15, 1983, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street NW., Washington, DC 20006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The NASD proposes to amend its rule regrding position and exercise limits for NASD members trading in individual exchange-traded options to make those rules equivalent to the position and exercise limits rules of the options exchanges. In the past, the NASD has imposed on its members position limits that were the same as those imposed by the exchanges trading standardized options. Recently, the SEC approved options exchange proposals to increase position and exercise limits.[1] Thus, the NASD will apply equivalent position and exercise limits of 2,500 and 4,000 contracts to trading of individual, exchange-traded stock options. In addition, the NASD proposes to raise the position and exercise limits for conventional options to 2,500 contracts from 2,000 contracts. The NASD states that the statutory basis for the proposed rule change is Section 15A(b)(6) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR–NASD–83–22.

[1] On July 18, 1983, the Commission approved rule changes submitted by the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc. that increased position and exercise limits in individual standardized options to 2,500 or 4,000 contracts, depending upon the float and trading volume of the underlying security. Securities Exchange Act Release No. 19975, July 18, 1983, 48 FR 33389, July 21, 1983.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed wih the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of Section 15A, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the proposed rule change consists simply of the adoption of position and exercise limits for options positions held by NASD members that are identical to (or in the case of conventional options, stricter than) the position and exercise limits the Commission has previously approved for the options exchanges.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

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BILLING CODE 8010-01-M

[Rel. No. 20424; SR-NASD-83-23]

National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 29, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 8, 1983, the National Association of Securities Dealers, Inc. 1735 K Street, N.W., Washington, D.C. 20006 filed with the Securities and Exchange Commission the proposed rule change as described in Items I, and II 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

The proposed rule changes consist of (i) new rules pertaining to the pre-opening application as to opening transactions in a security eligible to be trades through ITS, (ii) certain revisions to the rule governing trade-throughs, (iii) certain revisions to the rule governing locked or crossed markets in ITS and (iv) certain revisions to the rule governing blocked transactions.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. 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 Purposes of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule changes are to enhance the operation of the pre-opening application, and to clarify the applicability of the trade-through rule and blocked transaction rule.

Two current pre-opening rules specify the procedures pertaining the "Pre-Opening Application" whereby an ITS/CAES Market Maker who wishes to open his market in an ITS stock may obtain any pre-opening interest in that stock from other market-makers registered in that stock in other Participant markets, or conversely, respond to requests for pre-opening interest received from other Participant markets. The changes consist primarily of modifications to the Pre-Opening Application affecting openings by ITS/CAES Market Makers which revise the "applicable price changes" that trigger the requirement for an ITS/CAES Market Maker to issue a pre-opening notification, and which revise the sort of information which must be contained in a pre-opening notification.

Currently an ITS/CAES Market Maker must issue a pre-opening notification whenever he anticipates that the opening price of the security in question will be more than ¼ of a point away from the last price reported for that security on the consolidated tape on the previous trading day ("the previous day's closing price"). This new rule changes this requirement by specifying two different "applicable price changes" which trigger the obligation to issue a pre-opening notification. The new rule requires an ITS/CAES Market Maker to issue a pre-opening notification in a Tape A eligible security if his anticipated opening price will be *more than an ⅛ of a point away* from the previous day's closing price if such closing price was *less than $15* for a CTA Network A security or was *less than $5* for a Network B security. If such closing price was *$15 or more* for a Network A security or *$5 or more* for a Network B security, the ITS/CAES Market would be required to issue a pre-opening notification if his anticipated opening price will be *more than a ¼ point away from such closing price.*[1]

"Price Range" Information

The rule currently provides that a pre-opening notification shall identify the ITS/CAES Market Maker and the security involved, and shall state the side of the market in which the order imbalance exists, the amount of the imbalance, and the amount of stock "paired off."

The new rule retains the requirement that a pre-opening notification identify the ITS/CAES Marker Maker and the security involved, but deletes the requirements to state the side of the market in which the order imbalance exists, the amount of the imbalance, and the amount of the stock "paired off." Instead, the new rule provides that a pre-opening notification shall indicate the "applicable price range" within which the ITS/CAES Market Maker anticipates opening the security in question. Where the previous day's closing price in a Network A security is under $50 or under $10 for a Network B security, the applicable price range shall not exceed ½ point. Where the previous day's closing price is $50 or more for a Network A security or $10 or more for a Net work B security, the applicable price range shall not exceed one point.[2] The

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[1] If the security's previous day's closing price exceeded $100 and the security does not underlie an individual stock option contract listed and currently trading on a national securities exchange, the "applicable price change" triggering the obligation to issue a pre-opening notification is one point.

[2] If the security's previous day's closing price exceeded $100 and the security does not underlie an individual stock option contract listed and currently trading on a national securities exchange, the permissible price range is two points.

price range may not straddle the previous day's closing price, although it may include it as an endpoint.

The Association believes that this simplified "price range"—type information will make pre-opening notifications less cumbersome to issue, and thereby add to the overall operational efficiency of the Pre-Opening Application, while still providing market-makers in the other ITS participant markets with useful market information to assist them in participating in opening transactions by an ITS/CAES Market Maker.

The rule currently provides that where an ITS/CAES Market Maker has issued a pre-opening notification identifying an imbalance on one side of the market, and prior to the opening, the imbalance shifts to the other side of the market, the ITS/CAES Market Maker must issue an additional pre-opening notification if his anticipated opening price will be more than a ¼ point away from the previous day's closing price. Where an ITS/CAES Market Maker has issued a pre-opening notification, and prior to the opening, the imbalance indicated in such notification has been reduced, eliminated or reversed so as to indicate an opening price not more than a ¼ point away from the prevous day's closing price, the ITS/CAES Market Maker must issue an "altered" notification.

The new rule provides for two new kinds of "subsequent" notifications: a "cancellation" notification, and a "second look" notification. The new rule retains the "additional" notification in a somewhat modified form. The "additional" and "second look" notifications are intended to provide market-makers in other participant markets with useful market information as to their possible participation in the opening transaction in a security. The "cancellation" notification is intended to inform such market-makers that the market situation has changed so that the anticipated opening price will not exceed the previous day's closing price by more than the "applicable price change."

The subsequent notifications would operate as follows: Where an ITS/CAES Market Maker has issued a pre-opening notification and, prior to the opening in the affected security, his anticipated opening price in that security shifts so that it is both (1) outside the price range specified in the pre-opening notification and (2) represents a change from the previous day's closing price by more than the "applicable price change," the ITS/CAES Market Maker shall issue an "additional" notification, containing the same sort of information as in the originial notification, before opening his market.

Where an ITS/CAES Market Maker has issued a pre-opening notification, and, prior to the opening in the affected security, his anticipated opening price in that security shifts so that it is outside of the price range specified in the pre-opening notification, but does not represent a change from the previous day's closing price of more than the "applicable price change," ITS/CAES Market Maker shall issue a "cancellation" notification.

If a responding market-maker who has indicated in his pre-opening response interest as principal at a price better than the anticipated opening price would be precluded from participation as principal in the opening participation as principal in the opening transaction, the ITS/CAES Market Maker shall send a "second look" notification notifying such responding market-maker of the price and size at which he could participate as principal.

The rule currently provides that an ITS/CAES Market Maker must wait at least five minutes before opening his market after he has issued a pre-opening notification or an additional pre-opening notification. The time period applicable to the "altered" notification is the balance of the five minute period applicable to the original pre-opening notification at the time the "altered" notification is issued.

The new rule reduces the period following the issuance of a pre-opening notification during which an ITS/CAES Market Maker must wait before opening his market—from five minutes to three minutes. [3] The time periods applicable to "additional," "cancellation," and "second look" notifications are either (1) one minute or (2) until the balance of the original three-minute waiting period expires, whichever is longer.

The Association believes that the revised time periods in the amended rule still provide market-makers in other participant markets with sufficient opportunity to participate in opening transactions, while facilitating such transactions by reducing the time period during which a security cannot be opened for trading.

The new trade-through rule differs from the current rule in basically three respects. The amended rule provides (1) extensions of time within which a complaint may be made under certain circumstances, (2) that better-priced bids or offers in other participant markets which are traded-through when an ITS/CAES Market Maker executes a "block size" transaction must be satisfied at the "execution price of the block" under certain conditions, and (3) makes the 100-share exemption in the rule uniform for all markets.

The first item mentioned is addressed by way of revisions which explain what constitutes a "timely" complaint by an aggrieved party of a trade-through. Previously, the rule required that a complaint of a trade-through be received within five minutes of the time the report of the transaction which consitutes the trade-through was disseminated over the high speed line of the consolidated last sale reporting system. This requirement was not always practicable, especially in those situations where a trade-through occurred between two ITS Exchange Participants or an ITS/CAES Market Maker and an Exchange Participant. Under such circumstances, it could take more than five minutes to determine which market center initiated the trade-through, because the complaint may have been sent to the market center that had been the recipient rather than initiator of the trade-through. In such case, the ITS/CAES Market Maker may not have been able to determine within the five minute period which market center actually initiated the trade-through. Thus, the rule has been changed to make clear in such situations that a "timely" complaint is one that (1) is received by the participant market where the transaction which constituted the trade-through was executed within five minutes from the time the report of the transaction appeared on the high speed line of the consolidated tape and (2) is received by the initiator of the trade-through within ten minutes from the time the aggrieved party first issued his complaint to the participant market where the trade-through occurred. The Association believes that this additional 10-minute time period should provide a reasonable amount of time for an aggrieved party to send an administrative message complaining of the trade-through to all market centers, thus assuring that the initiator of the trade-through is notified in a "timely manner."

The new rule also modifies somewhat the price at which a trade-through complaint must be satisfied in certain instances where the ITS/CAES Market Maker who initiates the trade-through is effecting a "block size" transaction [4] not

[3] Four minutes prior to six months from the date these rules are approved by the SEC or such earlier date which may be determined to be technically practicable by the NASD.

[4] A "block size" transaction is defined as one involving 10,000 or more shares of a common stock traded through ITS or a quantity of such security having a market value of $200,000 or more.

covered by the Block Transaction Rule. If the member fails to satisfy better-priced bids or offers displayed by another ITS/CAES Market Maker or ITS Exchange within two minutes of the print of the block size transaction on the high speed line of the consolidated last sale reporting system and a complaint is received from the aggrieved party within five minutes of such print, the member shall, if he determines not to correct the price of the transaction so that a trade-though would not have occurred, satisfy the bid or offer traded-through at the price of the block size transaction, rather than at the displayed price of such bid or offer.

Currently, the Trade-through rule and Locked and Crossed Markets rule contain a number of exceptions to the requirements that members respond to trade-through complaints from other ITS participant markets, and that they promptly send a commitment to trade seeking the bid or offer which was locked or crossed. One exception is when the size of the bid or offer traded-through, or the size of the bid or offer on another market which an ITS/CAES Market Maker has "locked" or "crossed" is for 100 shares on all markets except the Pacific Stock Exchange, whose displayed bids and offers are subject to a 200-share exception. Systems enhancements on that exchange now render the extra 100-share exception unnecessary as to bids and offers displayed by that exchange. Accordingly, these rules have been amended to make the 100-share exception uniform for all ITS participant markets.

The Association's Block Transaction Rule currently requires an ITS/CAES Market Maker who executes an agency or principal cross of block size at a price outside the "best" quotation displayed by any ITS/CAES Market Maker or participaing exchange to satisfy, at the execution price, any better-priced bid or offer displayed by such ITS/CAES Market Maker or participating exchange. The current rule defines "block size" as a trade involving at least 10,000 shares, or a quantity of stock having a market value of at least $200,000.

The new rule distinguishes between a transaction of "block size" and a "block trade." As noted in the discussion of the new Trade-through rule, a "block size" transaction is one involving 10,000 or more shares of a common stock or having a market value of at least $200,000. A "block trade" transaction subject to the Rule is one that is of "block size", is effected at a price outside the bid or offer displayed from another ITS participant market, and is either a "cross," or is any other transaction not the result of an execution at the "current bid or offer" of the ITS/CAES Market Maker. Where an ITS/CAES market maker does not have a customer on the other side for part of a block size transaction and purchases the remaining part of the trade as principal at his "current bid or offer" or sells that part to other market makers at their current bids or offers, such part of the transaction is not a "cross" and accordingly not a block trade under this rule. A "current bid or offer" by the ITS/CAES Market Maker means the price of the current quotation displayed by the ITS/CAES Market Maker established independently of the order to buy or to sell which is represented by the ITS/CAES Market Maker. a "block size" transaction that does not meet all the criteria or a "block trade" is not subject to the Block Transaction Rule, but would be subject to the Trade-through Rule. The primary purpose of the revision of the Block Transaction is to clarify when the Rule is applicable to transaction of ITS/CAES Market Makers in a non-exchange environment. It should be noted that the ITS Block Policy originally adopted by one of the ITS Participant Exchanges stated that it was applicable when a block trade was executed at a "clean-up" price outside the best quotation displayed by another Participant. The term "clean-up" price was derived from NYSE Rules 104.10(7) and 127, and its meaning was apparently commonly understood by members trading on the New York Stock Exchange. However, the term "clean-up" price does not appear anywhere in the rules of several other ITS Participants, and some uncertainty had arisen as to the precise meaning of the term. The new rule will hopefully avoid this confusion while applying, in a manner appropriate to the over-the-counter market, the general concepts embodied in the other ITS Participants Block Policy, to ITS/CAES Market Maker.

The restatement of the Block Transaction Rule also incorporates exceptions to the Rules' application similar to exceptions to the "Trade-through" and "Locked and Crossed Markets" Rules.

Section 11A and Section 15A of the Securities Exchange Act ("the Act") provide the principal statutory basis for the proposed rule changes. By facilitating the operation of ITS, the proposed rule changes are expected to remove impediments to and perfect the mechanism of a free and open market and a national market system, and this, in turn, will protect investors and the public interest, and prevent unfair discrimination between customers, brokers, and dealers, as called for in Section 15A(b)(6) of the Act. The proposed rule changes meet other requirements of Section 15A(b)(6) of the Act in that they will promote just and equitable principles of trade, and foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities.

The proposed rule changes can also be expected to promote the maintenance of fair and orderly markets in the national market system. This is in keeping with the objectives of Section 11A(a)(1)(C) of the Act, which calls for the maintenance of fair and orderly markets to assure.* * *

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(ii) Fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets;

(iv) The practicability of brokers executing investors' orders in the best market.

B. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will not result in a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. 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, 450–5th Street, N.W., Washington, D.D. 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, 450–5th, 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.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities associations and a national market system for securities, and in particular the requirements of Sections 11A(a)(1)(C), 11A(a)(1)(D), and 15A(b)(6) of the Act and the rules and regulations thereunder.

The Commission finds good cause for summarily approving the NASD's rule proposals. This filing contains provisions that were developed by the ITS Participants following extensive discussions between these Participants. In addition, substantively identical rule changes by the other ITS Participants previously were issued for comment and no comments were received.[5] The Commission believes that approval of these proposed rule changes is desirable in order to achieve uniform implementation of the ITS Amendment.

It is therefore ordered, pursuant to Section 19(b)(3)(B) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved effective as of the date of this release.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-32494 Filed 12-5-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23142; 70-6513]

New England Energy Inc.; Proposed Investment by Fuel Subsidiary in Oil and Gas Exploration and Development

November 30, 1983.

New England Energy Incorporated ("NEEI") 25 Research Drive, Westborough, Massachusetts 01581, a fuel subsidiary of New England Electric System ("NEES"), a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration pursuant to Sections 6(a), 7, 9(a), 10, 12, and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45(c), 90 and 91 thereunder.

NEEI is engaged in various activities relating to fuel supply for the NEES system. By order dated December 30, 1980 (HCAR No. 21862) NEEI was authorized to enter into an oil and gas exploration and development partnership ("Partnership") with Dorchester Exploration, Inc. ("Dorchester"). On December 29, 1981, NEEI terminated the Partnership with Dorchester. NEEI and Dorchester are presently engaged in winding up the affairs of the partnership. As a result of its participation in the partnership, NEEI has interests with Dorchester in leases in 11 States, primarily Louisiana, Texas, New Mexico, Mississippi and Wyoming.

In 1984 and 1985, NEEI proposes to participate in drilling wells on selected properties and possibly in some secondary recovery projects, primarily in West Texas. NEEI estimates that its expenditures for these activities will be approximately $12 million and requests that the commission authorize the investment through December 31, 1985.

The amended application-declaration and any amendments thereto are available for public inspection through the commission's office of public reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division or Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-32497 Filed 12-5-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20427; SR-NYSE-83-45]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 30, 1983.

The New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, NY 10002 submitted on September 30, 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 amend Article VIII, Sections 4, 5 and 6 of the NYSE Constitution relating to arbitration and to adopt new NYSE Rule 633 (member controversies). The proposed rule change would permit: (i) Disputes between members, allied members, and member organizations to be heard or resolved in locations other than New York City; (ii) current and former members, allied members, and officers of member corporations to serve on the NYSE Board of Arbitration; (iii) retirees to serve on the panels of arbitrators; and (iv) member controversies involving less than $10,000 to be heard by one arbitrator and member controversies involving $10,000 or more to be heard by either three or five arbitrators.

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. 20269, October 11, 1983) and by publication in the **Federal Register** (48 FR 48567, October 19, 1983).[1]

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. 83-32490 Filed 12-5-83; 8:45 am]

BILLING CODE 8010-01-M

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[5] See Securities Exchange Act Release No. 20320 (October 21, 1983), 48 FR 49952.

[1] A comment letter on this proposal was submitted to the Commission by Clinton P. Stephens, General Partner, Alex. Brown & Sons, dated November 16, 1983. While the comment letter suggested that the proposed rule changes would facilitate the prompt and equitable resolution of controversies, with added convenience and reduced costs to NYSE member organizations, it also suggested that additional specificity may be warranted in determining the number of arbitrators in cases involving disputes of $10,000 or more. The rule, as proposed, provides the Exchange with flexibility to consider the amount in dispute, as well as other factors, such as the complexity of the legal issues involved, when determining the number of panelists for a given proceeding. In addition, the Exchange has indicated that the Director of Arbitration will determine the number of panelists in disputes involving $10,000 or more, based on the issues and amount involved, among other factors.

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0430]

Walnut Capital Corp.; Issuance of License to Operate as a Small Business Investment Company

On February 10, 1982, a notice was published in the **Federal Register** (47 FR 6123) stating that Walnut Capital Corp., 110 East 59th Street—37th Floor, New York, New York 10022 had filed an Application with the Small Business Administration 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 (SBIC).

Interested parties were given until the close of business February 25, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on November 7, 1983 issued license No. 02/02-0430 to Walnut Capital Corp., pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 30, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-32306 Filed 12-5-83; 8:45 am]

BILLING CODE 8025-01-M

Preferred Lenders Pilot Program; Additional Participants

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: The Small Business Administration is operating a pilot Preferred Lenders Program (PLP). The program is explained on Page 7667 in a Notice published in the **Federal Register**, Vol. 48, No. 37, of February 23, 1983.

In addition to those lenders listed in previous **Federal Register** notices, the following lenders also are participating in the PLP pilot: The Money Store Investment Corporation, Springfield, New Jersey; Manufacturers and Traders Trust Company, Buffalo, New York; and Liberty National Bank and Trust Company, Buffalo, New York.

SBA would also like to announce that the PLP pilot program in Region II (NY and NJ) will terminate on or before May 31, 1984. The previous termination date for the Region II pilot was December 31, 1983. This change is being made so that the PLP's "pilots" will have the same termination date in all three participating regions [II (NY and NJ), V (OH, IL, and WI) and IX (AZ, NV, CA and HI)].

FOR FURTHER INFORMATION CONTACT: Danny J. Gibb, Chief, Financial Institutions Branch, or Jim Hammersley, Financial Analyst, 1441 L Street NW, Room 503, Washington, D.C. 20416, (202) 653-6076.

(Catalog of Federal Domestic Programs 59.012 Small Business Loans)

James C. Sanders,

Administrator.

[FR Doc. 83-32505 Filed 12-5-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Submission of Preapplications for Airport Grant Funds Under the Airport Improvement Program for Fiscal Year 1984

Section 509(e) of the Airport and Airway Improvement Act of 1982 (AAIA) provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form prescribed, of the sponsor's intent to apply for entitlement funds. Notification of the sponsor's intent to apply during FY 1984 for any of its entitlement funds, including those unused from prior years shall be in the form of a project preapplication or application (SF 424 and FAA Form 5100-30 or 5100-100 as appropriate) submitted to the FAA field office no later than March 30, 1984. Approval of preapplications or applications received after that date may be deferred by the FAA until the following fiscal year. FAA field offices, in developing their regional programs, may request sponsors' input at an earlier date. Every effort should be made to meet these regional deadlines.

To assure effective administration of the grant program and to provide information needed by the FAA to carry out its responsibilities under Section 508(d)(5) of the AAIA, sponsors should also submit preapplications by FAA field office deadlines, but no later than March 30, notifying the FAA of the Airport sponsor's intent to seek funds available under Section 506 of the AAIA for:

(a) Reliever airports;

(b) Airport noise compatibility planning and programs;

(c) Commercial service airports and public airports (other than commercial service airports) which were eligible for Federal assistance from funds appropriated under Section 15(a)(3) of the Airport and Airway Development Act of 1970 and to which either Section 15(a)(3)(A)(I) or 15(a)(3)(A)(II) of such Act applied during FY 1981, and

(d) Integrated airport system planning.

FAA field offices will assist in preparation of preapplications/applications and provide procedural information as needed.

This notice submitted by Mr. John Sekman, APP-520, on (202) 426-8590.

Issued in Washington, D.C. on November 23, 1983.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 83-32392 Filed 12-5-83; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-83-25]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 20, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC-204), Room 916,

FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of §11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 23, 1983.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
23809	Evergreen	14 CFR 121.407(a)(1)	To permit certain maneuvers and procedures allowable under the nonvisual simulator classification in Appendix A of Part 61 to be approved for accomplishment in Simulator Training Inc.'s Lockheed Electra L-188 training devices.
23770	Reeves Aviation, Inc	14 CFE 135.243(a)	To permit Mr. Jay Meinen to serve as a pilot in command of a multi-engine airplane operated by petitioner's commuter air carrier without holding an airline transport pilot certificate.
23813	Northrop University	14 CFR 63.39(b)(2)	To permit flight engineer applicants trained by petitioner to show in an approved simulator that they can satisfactorily perform the normal duties and procedures relating to the airplane, airplane engines, propellers, if appropriate, and systems and appliances.
23787	Edward L. Swanson	14 CFR 65.91(c)(1)	To permit petitioner to apply for air inspection authorization without holding a currently effective mechanic certificate which has been in effect for not less than the 3-year period immediately before the date of application.
23753	Saudi Arabian Airlines	14 CFR 61.2	To permit petitioner's pilots, who are neither United States citizens nor resident aliens, to be issued an FAA pilot certificate outside the United States with an A-300/600 type rating; the A-300/600 aircraft is not a U.S.-registered civil aircraft.
23808	Lone Star Helicopters	14 CFR 43.3(h)	To permit petitioner's pilots to remove, check and reinstall magnetic chip detector plugs on Allison model 250 series, turbine engines.
23774	Eli Lilly Int'l. Corp	14 CFR 91.32(b)(2)(ii)	To permit petitioner to operate its Gulfstream II aircraft above flight level 410 without one pilot wearing an oxygen mask at all times.
23810	Trans World Airlines, Inc	14 CFR 91.27(a)(2)	To permit petitioner to duplicate copies of the aircraft registration certificates to be placed on board TWA aircraft with the original certificates to be retained on file.
15194	Compania Mexicana de Aviacion	14 CFR Portions of Parts 21, 61, & 91	To extend Exemption 2195, as amended, which permits petitioner to operate certain U.S.-registered B-727 aircraft using an FAA-approved minimum equipment list and a continuous airworthiness maintenance program.
22282	Regional Airline Assn.	14 CFR 135.261(b)	To extend Exemption 3535, which expires February 28, 1984. This exemption allows Part 135 commuter air carrier certification holders, and their respective crewmembers, who engage in Part 135 commuter air carrier operations, to assign and accept, respectively, an assignment for duty during flight time if that assignment provides for a least 8 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignments, subject to certain conditions and limitations.
23763	Accelerated Ground Training	14 CFR 61.157(e)	To permit petitioner's trainees to complete a practical test in an FAA-approved Phase II B-727 simulator for the following: (1) The issuance of a B-727 type-rating to an ATP certificate without being required to meet the Part 121, Appendix H, line oriented flight training program.
23829	Sowell Aviation Co	14 CFR Part 41	To permit petitioner to train students in specific maneuvers and procedures and to require students to demonstrate proficiency to a specific performance level rather than meeting the required minimum total flight time.
21991	United Airlines	14 CFR 63.39(b)(1) & (b)(2), & 121.425(a)(2)(1) & (a)(2)(ii).	To extend Exemption 3463, which expires January 31, 1984. This exemption permits petitioner, its flight engineers, and flight engineer applicants to show that by the use of an FAA-approved pictorial means instead of the airplane, its flight engineers and flight engineer applicants can satisfactorily perform a preflight inspection; in an approved simulator using a LOFT program, its flight engineer applicants can satisfactorily perform the normal duties and procedures relating to the airplane, airplane engines, propellers, if appropriate, systems, and appliances. In an approved simulator LOFT program, its flight engineers and flight engineer applicants can satisfactorily perform assigned duties accomplished from the flight engineer station during taxi, runup, takeoff, climb, cruise, descent, approach, and landing. This exemption is subject to certain conditions and limitations.
23821	John R. Robison	14 CFR 61.63	To permit petitioner to transfer class ratings from his Canadian Tourist Permit to his U.S. Private pilot license.

Petitions for Reconsideration

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
21297	Joe Ware Flying Service	14 CFR 135.243(b)(3)	Reconsideration of denial of Exemption 3586 to allow petitioner to serve as pilot in command of his single engine Bonanza aircraft in day visual flight rule (VFR) conditions, even though he does not possess an instrument rating. Denied 10/31/83.
23411	John M. Houston	14 CFR 121.411(a)(1), (a)(6)	Reconsideration of Denial of Exemption 3723 to permit petitioner to qualify as a simulator pilot check airman without holding at least a Class III medical certificate. Denied 11/7/83.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23663	Aero Sport	14 CFR 135.213, 135.215, and 135.225	To permit petitioner, conducting cargo only operations to: (1) Depart IFR from airports regularly serviced with less than one-half mile visibility, at the pilot's discretion; (2) file for, fly to and shoot the published approach under IFR conditions to these airports without the requirement of reported weather at these facilities, at the pilot's discretion; (3) takeoff from these airports IFR without reported weather at these facilities, at the pilot's discretion; and (4) takeoff from an airport without a published approach, under IFR conditions, at the pilot's discretion provided the local Flight Standards District Office is satisfied with the departure procedure. *Denied 11/2/83.*
23661	People Express Airlines, Inc	14 CFR 63.39(b)(2)	To permit Mr. Douglas Crescenta, a flight engineer applicant on petitioner's advance simulator training program, to satisfy that portion of the practical test for a flight engineer certificate without holding an airline transport pilot certificate or a commercial pilot certificate with an instrument rating or without applying for an additional class rating under § 63.33. *Denied 11/9/83.*
23699	MBB Helicopter Corp	14 CFR 45.27(a)	To permit petitioner to display U.S. registration numbers at an angle 30 to 40 degrees off vertical on a BK 117 A-1 helicopter. *Denied 11/9/83.*
23380	Regional Airline Association	14 CFR 135.219, 135.221, and 135.223	To permit petitioner and other Part 135 operators to dispatch or release an aircraft to a destination airport even though the weather reports or forecast contain such conditional words as "a chance of" "occasionally," etc., so long as there is at least one alternate airport for which weather reports or forecasts indicate that weather conditions will be at or above authorized minimums. *Denied 11/14/83.*
20334	Evergreen Helicopters	14 CFR 135.261(b)	Renewal of Exemption 3052A, which expired October 31, 1983, to permit petitioner to operate its helicopters in a hospital emergency medical evacuation service without complying with the duty time limitations of that section. *Granted 11/14/83.*
23036	Icelandair	14 CFR 21.181	To extend Exemption 3531C, which expired November 1, 1983, and which permits petitioner to operate a leased U.S.-registered DC-8-55 aircraft, N916R, using an FAA-approved minimum equipment list. *Granted 10/31/83.*
21525	Venezolana Internacional de Aviacion, S.A. (VIASA)	14 CFR 11.25(b)(1)	To amend Exemption 3274B to allow petitioner to add Douglas DC-8 (DC-8), N801WA, to its exemption. The present exemption allows petitioner to operate one Boeing B-747-23C aircraft, N749WA, using an FAA-approved minimum equipment list. *Granted 10/31/83.*
15585	Cathay Pacific Airways	14 CFR Parts 21 and 91	To extend Exemption 2280F, which expires 12/31/83, to allow petitioner to operate three leased U.S.-registered L-1011 aircraft using an FAA-approved minimum equipment list and continuous airworthiness maintenance and inspection program. *Granted 11/1/83.*
23521	Singapore Airlines	14 CFR 21.181	To amend Exemption 3768 to permit petitioner to operate an additional B-747-312 aircraft using an FAA-approved minimum equipment list. *Granted 11/1/83.*
23776	Semco Instruments, Inc	14 CFR 11.27(j)(1), and 21.195(b)	To allow petitioner to conduct market surveys using aircraft to which Federal Aviation Administration experimental special airworthiness certificates have been issued. *Granted 11/2/83.*
20452	Dresser Industries	14 CFR 61.58(c)	To extend Exemption 3061A, which expires November 30, 1983, to permit petitioners pilots-in-command (PIC) to complete their entire 24-month PIC check in an FAA-approved flight simulator subject to certain limitations. *Granted 11/7/83.*
22794	Best Airlines	14 CFR 91.307	To amend Exemption No. 3496c to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 2 DC-9: N2892Q and N3301L. *Granted 11/7/83.*
23816	EG&G Special Projects	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 3 B-737: N4515W, N4510W, and N4506W. *Granted 11/7/83.*
23418	All Star Airlines	14 CFR 91.307	To amend Exemption No. 3547 to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 2 DC-9: N73AF, and N85AS. *Granted 11/14/83.*

[FR Doc. 83-32391 Filed 12-5-83; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Advisory Committee to the National Center for State and Local Law Enforcement Training; Rescheduled Meeting

The first meeting of the Treasury Advisory Committee on State and Local Law Enforcement Training (Announced in the **Federal Register**, Vol. 48, November 16, 1983, p. 52151), has been changed from Tuesday and Wednesday, December 6 and 7, 1983, to Tuesday and Wednesday, December 13 and 14, 1983. As previously announced, the meeting will be held in Building 262, Room S-9, at the Federal Law Enforcement Training Center (FLETC), Glynco, Georgia.

Approved:: December 1,1983.

John M. Walker, Jr.,

Assistant Secretary, Enforcement and Operations.

[FR Doc. 83-32448 Filed 12-5-83; 8:45 am]
BILLING CODE 2001-01-M

[Supplement to Department Circular Public Debt Series—No. Treasury 36-83]

Treasury Notes; Service G-1989

The Secretary announced on November 29, 1983, that the interest rate on the notes designated Series G-1989, described in Department Circular—Public Debt Series—No. 36-83 dated November 22, 1983, will be 11⅞ percent. Interest on the notes will be payable at the rate of 11⅞ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-32419 Filed 12-5-83; 8:45 am]
BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 235
Tuesday, December 6, 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

CIVIL AERONAUTICS BOARD

[M-395, Amdt 1]

Deletion of Item From the December 1, 1983 Meeting

November 29, 1983.

TIME AND DATE: 10 a.m., December 1, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

3. Docket 41217, Direct Flights Petition; Options. (For Information Memorandum dated 11-25-83, OGC, BDA, OCCCA, BIA, OEA)

STATUS: Open.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1692-83 Filed 12-1-83; 4:10 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-395, Amdt 2]

Addition of Item to the December 1, 1983 Meeting

November 30, 1983.

TIME AND DATE: 10 a.m., December 1, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

3a. Docket 41825—Petition by Republic for Emergency Interim Rules Concerning Terminations of Interline Agreements. (MBA 2119—OGC, BDA, OCCCA)

STATUS: Open.

PERSON TO CONTRACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[FR Doc. S-1693-83 Filed 12-1-83; 4:10 am]

BILLING CODE 6320-01-M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, December 12, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed changes to the Plans administered under the Federal Reserve System's employee benefits program.
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: December 2, 1983.

William W. Wiles,

Secretary of the Board.

[S-1701-83 Filed 12-2-83; 3:49 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 2:30 p.m., Friday, December 2, 1983. The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: December 2, 1983.

William W. Wiles,

Secretary of the Board.

[S-1702-83 Filed 12-2-83; 3:58 pm]

BILLING CODE 6210-01-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-52]

TIME AND DATE: 3 p.m., Wednesday, December 14, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. CY 1983 Service Awards.
2. Petitions and complaints:
   a. Film web drive stretch apparatus (Docket No. 998).
3. Investigations 701-TA-203 (Preliminary) and 731-TA-152 (Preliminary) (Pads for Woodwind Instrument Keys from Italy)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1698-83 Filed 12-2-83; 2:52 pm]

BILLING CODE 7020-02-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-51]

TIME AND DATE: 3:30 p.m., Monday, December 12, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 701-TA-201 (Final) (Certain Forged Undercarriage Components from Italy)—briefing and vote.
6. Investigation 731-TA-124 (Final) (Fall-Harvested, Round, White Potatoes from Canada)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1698-83 Filed 12-2-83; 2:52 pm]

BILLING CODE 7020-02-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[MN-83-27]

FEDERAL REGISTER CITATION OIF PREVIOUS ANNOUNCEMENT: 48 FR 53224, November 25, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, November 29, 1983.

CHANGE OF MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following items were deleted from the agenda:

1. *Reconsideration of Probable Clause:* Airplane Accident Report—Cessna 441, N36941, Butte, Montana, April 1, 1980.
2. *Opinion and Order:* Administrator v. Kelso, Paul, and Nichols, Dkts. SE-5534, 5541, and 5543; disposition of appeals of Administrator and respondents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6523.

November 30, 1983.

[S-1895-83 Filed 12-2-83; 2:47 pm]

BILLING CODE 4910-58-M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-28]

TIME AND DATE: 9 a.m., Tuesday, December 13, 1983.

PLACE: NTSB Board Room, eighth floor, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the remainder will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Safety Study Report:* Airport Certification and Operations.
2. *Letter* to Air Line Pilots Association in response to Petition for Reconsideration: Aircraft Accident Report—Trans World Airlines, Inc., Boeing 727-31, N840TW, near Saginaw, Michigan, April 4, 1979.
3. *Annual Review* of Aircraft Accident Data—U.S. General Aviation, Calendar Year 1980.
4. *Opinion and Order:* Petition of Fore, Dkt. SM-3081; disposition of the Administrator's interlocutory appeal.
5. *Opinion and Order:* Application of Thomas R. Moore for attorney fees and other expenses; NTSB No. 6-EAJA; disposition of the appeals of both parties.
6. *Opinion and Order:* Administrator v. Kelso, Paul, and Nichols, Dkts. SE-5534, 5541, and 5543; disposition of appeals of Administrator and respondents.
7. *Order:* Administrator v. Smith, Dkt. SE-5564; disposition of Administrator's petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

December 2, 1983.

[S-1896-83 Filed 12-2-83; 2:47 pm]

BILLING CODE 4910-58-M

9

NUCLEAR REGULATORY COMMISSION

DATE: Week of December 5, 1983 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Monday, December 5:*

9:30 a.m
Presentation by Parties on GPU Proposal (Public Meeting) (As Announced)
2:00 p.m
Discussion of Policy and Planning Guidance (Public Meeting) (*Postponed* from December 2) (Replaces Discussion of NRC Enforcement Policy)

Tuesday, December 6:

11:00 a.m
Affirmation/Discussion and Vote (Open/Closed to be determined) (New Item)
a. Catawba Order (*Tentative*)
2:00 p.m
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6) (As Announced)

Wednesday, December 7:

10:00 a.m
Discussion of Equipment Qualification Policy Statement and Proposed Rule (Closed/Open to be determined) (New Item)
1:30 p.m
Briefing/Possible vote on TMI Steam Generators (Open/Closed—Exemption 10) (As Announced)
3:30 p.m
Affirmation/Discussion and Vote (Public Meeting) (New Item)
a. Catawba Order (Alternate Date)
b. Petition to Institute Rulemaking on NRC Concurrence on DOE Siting Guidlines (*Tentative*)

Thursday, December 8:

9:30 a.m
Discussion of Staff Decision on Zimmer Course of Action (Public Meeting) (As Announced)

To verify the status of meetings call (recording)—(202) 634-1498.

CONTACT PERSON FOR INFORMATION: John C. Hoyle (202) 634-1410.

John C. Hoyle,

Office of the secretary.

[S-1899-83 Filed 12-2-83; 3:19 pm]

BILLING CODE 7590-01-M

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PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: December 14 and 15, 1983, 9 a.m.

PLACE: The Portland Hilton Hotel, 921 SW. Sixth Avenue, Portland, Oregon.

STATUS: Open. A portion of this meeting will be closed to the public to discuss pending litigation and other legal matters.

MATTES TO BE CONSIDERED:

Status Report on BPA Implementation of Council's Two-Year Action Plan
Discussion of Proposed Plan Amendment for the Residential Weatherization Program
Discussion of BPA Billing Credits Program
Staff Recommendation on Amendments to the Columbia River
Fish and Wildlife Program
Discussion of Pend Oreille Fish Hatchery
Status Report on Yakima Workplan
Council Business
Public Comment.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222-5161.

Edward Sheets,

Executive Director.

[S-1700-83 Filed 12-2-83; 3:39 pm]

BILLING CODE 0000-00-M

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SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 5, 1983, at 450 5th Street, NW., Washington, D.C.

Open meetings will be held on Wednessday, December 7, 1983, at 2:30 p.m. and on Thursday, December 8, 1983, at 2:30 p.m. in Room 1C30. Closed meeting will be held on Tuesday, December 7, 1983, following the 2:30 p.m. open meeting and on Thursday, December 8, 1983, at 9:30 a.m. and following the 2:30 p.m. open meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to

be considered at the closed meeting may be considered pursuant to one or more of 'he exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, December 7, 1983, at 2:30 p.m., will be:

Oral argument on an appeal by Wall Street West, Inc., a registered broker-dealer, from the decision of an administrative law judge. For further information, please contact R. Moshe Simon at (202) 272–7400.

The subject matter of the closed meeting scheduled for Wednesday, December 7, 1983, following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.

The subject matter of the closed meeting scheduled for Thursday, December 8, 1983, at 9:30 a.m., will be:

Formal order of investigation.
Subpoena enforcement actions.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, December 8, 1983, at 2:30 p.m., will be:

Consideration of a request by the Board of Governors of the Federal Reserve System for the views of the Commission regarding the exclusion of money market funds shares from the definition of "margin stock" under the Board's Regulations U and G. For further information, please contact Susan P. Hart at (202) 272–2098.

The subject matter of the closed meeting scheduled for Thursday, December 8, 1983, following the 2:30 p.m. open meeting, will be:

Litigation matter and internal personnel matter.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: JoAnn Zuercher at (202) 272–2014.

December 1, 1983.

[S–1694–83 Filed 12–1–83; 4:34 pm]

BILLING CODE 8010–01–M

federal register

Tuesday
December 6, 1983

Part II

Department of the Interior

Bureau of Reclamation

Acreage Limitation: Rules and Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation: Rules and Regulations

November 3, 1983.

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rulemaking.

SUMMARY: The Bureau of Reclamation, Department of the Interior, proposes to issue final rules and regulations establishing policies and procedures to meet the responsibilities of the Secretary of the Interior in administering title II of the Reclamation Reform Act of 1982 and other provisions of Federal Reclamation law. The rules and regulations will provide uniform criteria and procedures for all water user entities receiving irrigation water from Federal projects governed by Reclamation law.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Vernon S. Cooper, Chief, Acreage Limitation Branch, Bureau of Reclamation, E&R Center, D-410, P.O. Box 25007, Denver CO 80225, (303) 234-7195.

SUPPLEMENTARY INFORMATION: The Reclamation Reform Act of 1982, title II, Pub. L. 97-293 (96 Stat. 1263) was signed into law by President Reagan on October 12, 1982. The act is the culmination of an effort to modernize Reclamation law that began in the 95th Congress. The act, while retaining the basic principle of limiting the amount of land in the ownership which may receive water deliveries from Reclamation projects, introduces a new concept of full-cost pricing for some water deliveries. The act also makes a number of other changes to Reclamation law.

The Bureau of Reclamation initiated the preparation of rules and regulations shortly after the Reclamation Reform Act of 1982 was signed into law. During the perid October 28 through December 14, 1982, comments were solicited on the suggested content of and format for the proposed rules. Toward this end, a series of six public hearings were conducted throughout the West and in Washington, D.C., at which testimony from 59 individuals and organizations was presented. Numerous written comments were also received. All of these comments were carefully reviewed and considered in preparing the proposed rules.

Following publication of the proposed rules in the **Federal Register** on May 3, 1983, 14 public hearings at locations throughout the West and in Washington, D.C., were held. Approximately 152 people gave testimony at these hearings. An additional 119 people submitted comments through the mail.

Although the comment period was scheduled to close on July 5, 1983, the comment period was extended to August 5, 1983, at the request of several interested farm groups.

Classification. The Department of the Interior considers these rules to be major rules under Executive Order 12291.

Regulatory Impact Analysis. The Department of the Interior has prepared a regulatory impact analysis assessing the potential economic effects of its rules to implement the Reclamation Reform Act of 1982. The analysis examines the various alternatives that the Department of the Interior has considered in preparing its regulations, considers cost and program implications, and explains the Department's reasoning for making the choices which have resulted in the final rules and regulations. Copies of the Regulatory Impact Analysis may be obtained upon request from the offices of the Bureau of Reclamation located in Boise, Idaho; Sacramento, California; Boulder City, Nevada; Salt Lake City, Utah; Amarillo, Texas; Billings, Montana; Denver, Colorado; and Washington, D.C.

National Environmental Policy Act Compliance. An environmental assessment and FONSI (finding of no significant impact), which address the environmental impacts of these rules and two other alternatives for administering the Reclamation Reform Act of 1982, have been prepared and are available for public review. Copies will be provided upon request.

Small Entity Flexibility Analysis. The Department of the Interior certifies that this document 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.). Approximately 34,000 farm operations would come under the proposed rules. Of these, over 33,000 are farms of 960 acres or less and could be considered small entities. According to the Regulatory Impact Analysis, the rules will not have a substantial effect on these farms. On the other hand, the rules will have a substantial effect on an estimated 900 farms presently operating more than 960 acres. However, those farms constitute less than 3 percent of all farm operations in Reclamation projects westwide.

Memorandum of Law. The acreage limitation provisions of prior Reclamation law were administered on a case-by-case basis and founded on court decisions and interpretations of the law by the Solicitor of the Department of the Interior. This system has resulted in a complex regulatory process for administering these provisions of law.

Enactment of the Reclamation Reform Act on October 12, 1982, marked the first major change in the acreage limitation provisions of Reclamation law since 1926. It represents the culmination of an intensive effort by the Administration to work closely with Congress to achieve modernization of 1902 Reclamation law. Recognizing the many complex issues involved in implementing the new law, Congress included section 224(c) which provides the Secretary of the Interior with authority to prescribe regulations and collect information as necessary to effectively carry out the provisions of title II of the act and all other provisions of Federal Reclamation law. In accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.) and the intent of Congress, the Department of the Interior has developed regulations that provide guidance in administering these new provisions which are consistent with the law. The criteria and procedures established will apply uniformly to all water user entities subject to Federal Reclamation law.

Paperwork Reduction Act. The information collection requirements contained in section 426.10 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance Nos. 1006-0004, 1006-0005, 1006-0006.

Authorship. The principal authors of these proposed rules are Phillip T. Doe and Vernon S. Cooper, Acreage Limitation Branch, Engineering and Research Center, Bureau of Reclamation.

Significant Comments and Changes. The following narrative treats each part and subpart of the rules for which a significant comment was received or to which a significant change has been made.

Introduction. During the comment period from May 3 to August 5, 1983, documents containing comments about the proposed rules and regulations for implementation of the RRA (Reclamation Reform Act) of 1982 were received from 271 different sources. One hundred and nineteen documents submitting comments about the proposed rules and regulations were received through the mail; whereas, an additional 152 documents were received

as part of transcripts which resulted from the 14 hearings held at locations throughout the West and in Washington, D.C. The following list shows a summary of the number of speakers at each hearing and the number of pages contained in each transcript.

Location	Number of speakers	Number of pages in transcript
Albuquerque, New Mexico	5	21
Bend, Oregon	10	50
Billings, Montana	9	54
Boise, Idaho	10	54
Denver, Colorado	2	41
Grand Island, Nebraska	8	74
Grand Junction, Colorado	0	7
Los Banos, California	15	95
Pasco, Washington	30	120
Salt Lake City, Utah	3	32
Visalia, California	25	136
Washington, D.C.	3	33
Willows, California	16	107
Yuma, Arizona	16	91
Total	152	915

Most of the documents were received from respondents in the States of California and Washington. A numerical breakdown by the number of comments received from each geographical area is shown in the following list:

Geographic area	Number of responses
National or regional	20
Arizona	26
California	102
Colorado	4
Idaho	15
Kansas	0
Montana	12
Nebraska	12
Nevada	1
New Mexico	5
North Dakota	0
Oklahoma	0
Oregon	12
South Dakota	2
Texas	6
Utah	4
Washington	45
Wyoming	4
Other	1

Each document was classified into 1 of 14 categories according to the group of people it represented. The following list shows how many documents were received from each of the representative groups:

Segment of public responding	Number of responses
U.S. Congress	9
Federal departments and agencies (other than USBR)	1
USBR offices	7
States and State agencies	14
City and county governments	1
Water user districts	128
Water resources and farm organizations	32
Conservation and environmental organizations	5
Other organizations (law firms, banks, etc.)	15
Farm operators	46
Landowners who are not operators	5
Potential farmer	0
Undermined	7
Religious organizations	1

Water districts submitted a little less than one-half of all the documents. About one-half of the documents which were received from water districts came from districts located in California. Of the documents received from farm operators, 19 of them were submitted by operators from Washington, while 16 of them were submitted by operators from California. Nine United States Congressmen—four from California, three from Arizona, one from Montana, and one from Nebraska—submitted comments about the proposed rules.

Twenty-six of the documents were generally supportive of the proposed rules while 118 documents generally opposed the rules as they were written. Twenty-three of the documents expressed mixed views about the rules. The remaining documents commented about specific provisions, but the comments did not give a clear indication of the author's general opinion of the proposed rules.

The 271 documents contained approximately 1,500 specific comments about various provisions in the proposed rules. Of these, approximately 1,450 comments objected to some provision in the proposed rules or offered suggestions for changing specific provisions. The remaining comments expressed satisfaction with specific provisions in the proposed rules and regulations.

The leasing and full-cost provisions and the certification and reporting provisions were the two sections which received the most comments. The following list shows the number of comments, whether negative or positive, which were received regarding each section of the proposed rules and regulations.

Specific provisions		Number of comments
426.1	Objectives	0
426.2	Applicability	19
426.3	Authority	0
426.4	Definitions	80
426.5	Contracts	175
426.6	Ownership Entitlement	149
426.7	Leasing and Full-Cost Pricing	306
426.8	Operation and Maintenance Charges	57
426.9	Class 1 Equivalency	146
426.10	Certification and Reporting Requirements	296
426.11	Excess Land	69
426.12	Excess Land Appraisals	17
426.13	Exemptions	73
426.14	Residency	4
426.15	Religious and Charitable Organizations	6
426.16	Involuntary Acquisition of Land	2
426.17	Land Held by Governmental Agencies	7
426.18	Commingling	15
426.19	Water Conservation	27
426.20	Public Participation	6
426.21	Small Reclamation Projects	51
426.22	Decisions and Appeals	2

A sizable number of documents contained comments about not only specific provisions within the proposed rules but also about the rules in general. Some respondents stated that the proposed rules were complex, confusing, and difficult to understand. Due to the complexity of the RRA, several respondents suggested that there should be a 1- or 2-year delay before its implementation becomes effective. The suggestion that a specialist be employed in each project office to explain the rules to landowners was stated in several documents. Many respondents expressed concerns that the proposed rules were too stringent, did not express the intent of Congress, and tried to coerce water users to amend their contracts. The Bureau of Reclamation, on the other hand, also received several commendations for proposing rules which followed the intent of Congress, for preparing the rules in a timely manner, and for being willing to discuss problems dealing with the proposed rules.

In addition to comments that were directed toward a specific provision of the proposed rules, numerous documents were received which contained comments that were critical of the RRA itself. A few individuals objected to restrictions on the delivery of irrigation water for the production of excess basic agricultural commodities, as stated in section 222 of the RRA. These persons viewed this as being an infringement upon the farmer's right to choose which crops to grow. Many farm operators were opposed to the RRA in totality and preferred to continue their operations as they have in the past.

Specific Comments

43 CFR 426.2 Applicability

Comment 1: Several people stated that they feel unsure just how the rules apply to their land—which portions of their land are subject to acreage limitation regulations and which are not.

Response: We have added examples to § 426.6(f), *How ownership entitlement is to be computed,* to illustrate the application of ownership limitation.

Comment 2: It was suggested we identify the situations in which these rules do not apply.

Response: We did not accommodate this comment. The emphasis in the rules has been on explaining how and to

whom the rules apply. Moreover, it has been clearly stated in the preamble that these rules apply to all water user entities receiving irrigation water from Federal projects governed by Reclamation law. This statement of principle is given renewed emphasis in § 426.2 (b), (c), and (d), *Applicability*. These statements clearly imply that the rules do not apply to water user organizations who do not receive irrigation water from a Federal project governed by Reclamation law. Moreover, it would be an impossible task to describe the numerous situations under which these rules do not apply.

Comment 3: One person suggested we explain how the regulations would apply to Indian projects.

Response: The application of Reclamation law to Indian land is under litigation. The results of that litigation are uncertain. Therefore, to address Indian land vis-a-vis Reclamation law is inappropriate at this time and could prove injurious to the interests of the United States.

Comment 4: Fourteen individuals requested that the rules state that project water which unavoidably reaches the ground water and is commingled with an existing natural or nonproject ground-water supply shall not be considered irrigation water, as that term is defined in these rules.

Response: This generalization was not added as a provision in the final rules. It is a much more prudent approach to treat ground water on a case-by-case basis because of the great variety of situations that can develop as far as commingling project and existing ground water are concerned. In the past, the water service and repayment contracts with districts have contained provisions dealing with ground water when appropriate. We think this approach is correct and should be continued. It is also consistent with the procedures set forth by Congress with respect to commingling in the RRA.

Comment 5: We received a request to address the application of the rules to districts in the CAP (Central Arizona Project) which receive a municipal and industrial water supply but not an agricultural allocation.

Response: These rules apply to the delivery of the irrigation water. They do not address, nor are they intended to address, the delivery of water for municipal and industrial purposes.

Comment 6: One participant suggested that we add a section to the rules reaffirming provisions of law that permit districts to convert water service contracts to repayment contracts.

Response: This section was not added to the rules. There is nothing in the rules that threatens the provisions of existing law permitting such contract conversions.

43 CFR 426.4 Definitions

Note.—Definitions contained in the RRA may be explained by the regulations but not changed in meaning as some people requested.

43 CFR 426.4(a) Arable land

Comment 1: One participant suggested that the words "related project" be deleted from this definition.

Response: This phrase is required in the definition to assure that all facilities, even those thay may not be classed as specific irrigation or drainage facilities, are considered.

Comment 2: Two people suggested that the definition of arable land be expanded so that the land to which the term applies could be clearly identified.

Response: This term has well established usage in Bureau of Reclamation procedures and adequately and properly identifies the land to which it applies.

43 CFR 426.4(b) Contract

Comment 1: One person suggested that the definition of contract be expanded to indicate that the term includes subcontracts as well as master contracts.

Response: The term "contract," as defined, includes both master and subcontracts. To emphasize this, § 426.5(c), which deals specifically with the relationship between master contracts and subcontracts, has been added to the rules.

Comment 2: Four people suggested that most districts with water service contracts are exempt from the provisions of title II because the definition of contract contained in the proposed rules includes the terminology "payment of construction charges * * * including normal operation, maintenance, and replacement costs," but most water service contracts do not include this terminology. Thus, they believe this technicality should serve as the basis for exemption.

Response: Clearly, Congress did not intend to exempt districts with water service contracts from title II. The definition has been revised to make totally clear that no interpretation exempting districts with water service contracts from the RRA and these regulations was intended or could be made.

43 CFR 426.4(c) Contract rate

Note.—The term "contract rate" has been added to the definitions.

43 CFR 426.4(d) Dependent

Comment: One participant suggested that the definition of dependent should be tied to the definition of that term as set forth in the Internal Revenue Code of October 12, 1982.

Response: That revision has been made as suggested.

43 CFR 426.4(e) Discretionary provisions of title II

Note.—The term "discretionary provisions of title II" has been added to the definition section.

43 CFR 426.4(f) District

Comment 1: One person suggested that the definition of district be expanded to discuss the relationship between master contract and subcontract arrangements.

Response: The term "district," as used in these rules, must be essentially the same definition as found in the RRA. It is broad enough to cover all entities which have or may enter into water service contracts or repayment contracts with the United States; therefore, this change was not accommodated. However, as stated earlier, § 426.5(c), which specifically addresses master and subcontracts, has been added to the rules.

Comment 2: One person said that the inclusion of the term "individual" in the definition of district was confusing and the definition should be limited to irrigation districts.

Response: The term "individual" is included in the definition of district as set forth in the RRA. In some instances, the United States actually contracts with individuals. Therefore, this suggested change has not been made.

43 CFR 426.4(g) Excess land

Comment: One participant, supported by many others, suggested the term "excess land" be restricted to owned land.

Response: This suggestion has been accommodated because this is clearly the intent of the law.

43 CFR 426.4(j) Individual

Comment: Three persons suggested that the definition of individual be tied to the definition of that term as it read in the Internal Revenue Code as of October 12, 1982, and that the definition of an individual in a district electing to remain subject to ownership entitlement of prior law should not include both husband and wife.

Response: The definition has been changed to reflect these suggestions.

43 CFR 426.4(k) Irrevocable elections

Comment: Three persons suggested that the definition be changed to show

that a lessee cannot make an irrevocable election.

Response: It is clear Congress intended that both landowners and lessees could make individual elections. In an effort to protect the landowner's interest, however, § 426.10(a) has been expanded to show that a lessee must obtain and file a statement signed by the landowner, indicating that the landowner concurs with his or her land being included in the election.

43 CFR 426.4(l) Irrigable land

Comment 1: Five people suggested that areas used for tailwater ponds be excluded from land classed as irrigable.

Response: Tailwater ponds usually are considered temporary type facilities and therefore should not be excluded.

Comment 2: One individual suggested the area to be excluded in irrigable land classification be determined on a percentage basis for each farm, thus, reducing overall costs.

Response: A percentage approach to determine areas to be excluded in onfarm land classification determinations would certainly simplify the process; however, it would be difficult, if not impossible, to establish a standard percentage that would apply to, or be fair in, all situations. Therefore, this suggestion has not been accommodated.

Comment 3: Three respondents suggested the definition for irrigable land be the same as that used by the ASCS (Agriculture Stabilization and Conservation Service) of the Department of Agriculture.

Response: The definition of irrigable land, as set forth in these rules, reflects standard Reclamation procedures which have gained general acceptance westwide. The definition of irrigable land as used by ASCS is not as detailed and does not take into consideration some factors, particularly economic factors, such as return to the farmer's equity and labor. Therefore, the definition has not been changed.

Comment 4: One person suggested that the reclassification of irrigable land should not be undertaken if the reclassification would adversely affect the Reclamation fund, the district's economic base, or the water entitlement of the district.

Response: This suggestion was not accommodated because district land reclassification is specifically provided for under section 8 of the 1939 Reclamation Project Act.

43 CFR 426.4(m) Irrigation land

Note.—The term "irrigation land" has been added to the definition section. The term is used extensively throughout the rules to describe the type of land that is subject to the ownership limitations and the full-cost pricing provisions of law.

43 CFR 426.4(n) Irrigation water

Comment: Two persons suggested the definition of irrigation water be limited to water deliveries from project facilites pursuant to State water law.

Response: The definition of irrigation water, as set forth in these rules, is identical to that contained in the RRA.

CFR 426.4(o) Landholder

Note.—The term "landholder" has been added to the definition section.

43 CFR 426.4(p) Landholding

Comment: One person suggested that the definition of landholding be expanded to show that attribution to individual beneficiaries in a limited recipiency is not necessary.

Response: The definition has been expanded to show that in the case of a limited recipient, the beneficiaries of the recipiency do not have to be identified nor does individual attribution need to be made, except in the case where a beneficiary's interest in the limited recipiency exceeds 4 percent.

43 CFR 426.4(q) Legal entity

Comment 1: Five participants suggested that tenancies-in-common and joint tenancies should be excluded from the definition of legal entity, contending that in most States such ownership arrangements are not considered legal entities. This approach would allow tenancies to achieve unlimited size. The only restriction would be that no tenant could own more than 930 acres in the tenancy.

Response: This suggestion could not be accommodated since the law does not give special treatment to joint tenancies and tenancies-in-common. In fact, only individuals and legal entities have status as qualified recipients under the law. Obviously, tenancies are not individuals, and if they are not legal entities, it could be argued that they have no entitlement under the law. It is inconceivable, however, that Congress did not intent entitlement status for a form of ownership which is very common on Reclamation projects. Moreover, it is extremely awkward to suggest that Congress intended to limit husband and wife ownership to 906 acres, many of which are joint tenancies, and yet allow all other forms of tenancies to achieve unlimited size provided that no tenant owns more than 960 acres in the tenancy. In these rules, tenancies-in-common and joint tenancies are treated as legal entities.

Comment 2: One person suggested that trusts and estates be specifically included as entities which are considered legal entities.

Response: The definition of the term "legal entity" is broad enought to include trusts and estates as well as other types of ownership without specifically identifying all those forms of ownership; therefore, the suggested change was not deemed necessary.

43 CFR 426.4(s) Nondiscretionary provisions of title II

Note.—This term has been added to the definition section.

43 CFR 426.4(u) Project

Comment: One person suggested that the definition of this term should be expanded so that Corps of Engineers projects are specifically addressed.

Response: The definition of project, as presented in these rules, is identical to the definition in the RRA. We have not attempted any revision because the definition accurately defines the projects subject to these rules. Corps projects are covered separately in these rules in section 426.13.

43 CFR 426.4(v) Qualified recipient

Comment: One person suggested that there should be no limit on the number of persons forming a qualified recipiency.

Response: The 25-person limit for qualified recipients is a requirement of the RRA and cannot be changed by rules.

43 CFR 426.4(w) Reclamation fund

Comment: One person suggested that this definition be deleted from the rules because the fund is not a major factor in implementing the RRA and other funds could be involved.

Response: We have not deleted this definition because the term is used in § 426.7(k) and 426.11(j)(4). The definition reflects accurately that revenues collected may be credited to funds other than the Reclamation fund if Congress specified such a disposition in specific project-authorizing legislation.

43 CFR 426.4(aa) Title II

Comment: Two persons advised us that we were creating confusion by limiting the definition of title II to only sections 203 through 208 when, in fact, title II embraces sections 201 through 230, or, in more general terms, all of the sections of Pub. L. 97–293 which have come to be known as the RRA.

Response: We have revised the definition of title II to include all sections of the RRA; moreover, we have added the terms "discretionary provisions" and "nondiscretionary provisions" to the definitions so as to be able to distinguish sections 203 through 208 from sections 209 through 230.

43 CFR 426.5 Contracts

Comment: Forty-four respondents stated that they felt the rules were coercive and designed to force districts into amending their contracts to conform to the discretionary provisions of title II. As a general rule, these people felt that the districts should be allowed to continue to do business as they have in the past until their present contracts expire. Integral to these statements was the perception that the United States was reneging on contracts which had been entered into in good faith.

Response: The contract provisions of these rules are mandated by the specific provisions of the RRA. This act sets forth the manner in which contracts are to be amended to conform to the RRA. Congress intended to encourage contractors to conform to the discretionary provisions of title II.

This intent is stated in section 203 of the RRA which requires all new contracts and all amended contracts providing a district additional or supplemental benefits to conform to the discretionary provisions of the RRA. Congress included inducements in the law to encourage amendment of existing contracts by offering such contractors a larger ownership entitlement and the use of class 1 equivalency. But by amending its contract, a district is also required to charge full cost for all leased land in excess of the entitlement set forth in the law, pay full O&M (operation and maintenance) charges due the United States on an annual basis, and comply with the certification provisions set forth in the act. As a further inducement for amendment, Congress included a provision in section 203(b) of the act that requires nonamending districts to charge full cost for water used on leased land in landholdings which are in excess of 160 acres after April 12, 1987. It was the intent of Congress to bring districts under the discretionary provisions of the RRA as soon as possible. It is the intent of the Secretary to fulfill this mandate.

Sections 426.5(a) (1), (2), and (3) of the rules restate, in somewhat more detail, the provisions of law which deal with the treatment of contract actions. That is, existing contracts continue in effect until amended; new contracts executed after October 12, 1982, must conform to the discretionary provisions of title II; and amended contracts that provide the districts additional or supplemental benefits must also conform to those discretionary provisions. The rules specifically identify contractual actions that would be considered additional or supplemental benefits. All other actions dealing with contract amendments are to be considered supplemental or additional benefits unless otherwise determined by the Secretary.

43 CFR 426.5(a)(1) Contracts in force on October 12, 1982

Comment: Participants expressed concern that this section should not be construed to preclude farmers in a district from voting on the question of whether they should conform to the discretionary provisions of title II.

Response: The rules neither propose nor make any change in the procedures a district must follow under State law to amend its contract; therefore, no revision to the rules was necessary.

43 CFR 426.5(2) New contracts

Comment 1: One respondent suggested that a district should be permitted to remain under the prior law even though it enters into a new contract, if the benefits to the district did not change as a result of the contractual action.

Response: This suggestion was not accommodated because the law specifically requires that contracts entered into subsequent to the date of the act must conform to the discretionary provisions of title II.

Comment 2: Another respondent suggested that temporary contracts should be exempt, by specific language, from the provisions of this subsection.

Response: Temporary contracts are addressed in § 426.13(a)(3); therefore, it was determined unnecessary to make a specific exclusion of temporary contracts in this section of the rules.

Comment 3: One respondent stated that the sentence which concludes each discussion of the various contract actions is confusing since it is repeated verbatim in succeeding discussions.

Response: This concluding sentence is needed to explain which contract actions make water users in a contracting entity qualified or limited recipients and which do not. Since most contract actions do make the water users qualified or limited recipients, that explanation is often restated.

43 CFR 426.5(a)(3)(i) Contracts amended for conformance to Pub. L. 97-293

Comment 1: One participant opined that the provision in this section of the rules which states that a district's request for a contract amendment would be honored as of the date of the request would actually discourage requests from districts.

Response: We believe the contrary to be true. If a district is requesting its contract be amended to conform with the discretionary provisions, it undoubtedly wants to have the advantage of the expanded acreage entitlement, class 1 equivalency, and other advantages of the discretionary provisions, as soon as possible. This suggestion, therefore, has not been acted upon.

Comment 2: One respondent suggested that an amendment to a contract at a district's request should not affect the repayment conditions in the contract for that district.

Response: A district's repayment obligation will not change if it amends its contract for the simple purpose of conforming to the discretionary provisions of title II. This is specifically guaranteed under the law. However, the district could experience increased costs in other areas. For instance, some districts are not presently paying the full O&M costs due the United States; but, by virtue of an amendment, they will be required to pay the full O&M costs annually as explained more fully in § 426.8. Then, too, as explained in § 426.7 (c) and (d), landholders would have to pay the "full cost" for irrigation water delivered to land in their holding which exceeded their basic entitlement.

Comment 3: A respondent suggested that a sentence should be included in this section stating that if a district's contract amendment is disapproved by the governing State authority, the district shall not be subject to title II except for the individual electors who elect to come under that title.

Response: The suggestion correctly reflects the action that would be taken, but it was not thought necessary to amend this section since the language, as written, is adequate to accommodate such an eventuality.

43 CFR 426.5 (a)(3)(ii) Contracts amended to provide additional or supplemental benefits

Comment 1: Nine respondents suggested that the rules be clarified to assure that a new contract for a temporary water supply does not require the district to conform its contract to the discretionary provisions of title II. One respondent specifically addressed the temporary water supply contracts for the CAP. Another respondent suggested that the rules should be written so as to encourage the sale of excess water because of the benefits that would be derived from such sales.

Response: The treatment of temporary water supply contracts is dealt with in § 426.13(a)(3). This section has been modified to show that a single temporary contract of 1 year or less does not constitute an additional or supplemental benefit and, therefore, would not require amendment of a district's water service or repayment contract. This stipulation is in

conformance with section 215 of the RRA. Contracts for water supplies that are for a period of more than a year are presumed to provide additional or supplemental benefits and will require amendment of existing contracts for conformance to the discretionary provisions of title II. In the case of the CAP, there can be no exception by rules that would, in effect, exempt that project from the provisions of Reclamation law that are not otherwise provided for in the law itself; therefore, the suggestion dealing with CAP contracts has not been acted upon.

Comment 2: Two respondents stated that districts which have paid off their construction charges should not again become subject to Reclamation law because they have contracted with and receive a water supply from a district which is not exempt.

Response: An additional provision has been included in § 426.13 to clarify the status of districts which have become exempt from Reclamation law by virtue of having repaid their construction obligation.

Comment 3: There were 12 comments suggesting that the third sentence in this section which states, "Moreover, all existing provisions of those contracts become subject to review and amendment," should be deleted because it was not consistent with other provisions of the RRA.

Response: This sentence was included in this provision because it reflects standing Departmental policy in actions involving the amendment of existing water service and repayment contracts. In the past when contracts have been amended to provide new benefits, it has been the policy to review all provisions of the contracts and make amendments where necessary. We agree that the provisions of the RRA preclude changing certain provisions of contracts when they are amended unless such changes are agreed to by the non-Federal party; therefore, we have deleted this sentence. The deletion of this sentence, however, should not be construed as a change in the Departmental policy dealing with the review of provisions of contracts that are being amended to supply new benefits.

Comment 4: Nine respondents stated that the discussion of what constitutes additional or supplemental benefits is too vague.

Response: The rules identify those actions which are clearly not additional or supplemental benefits. If the contractual action does not fall into one of these categories, it is deemed an additional or supplemental benefit.

Comment 5: One respondent felt that the rules should make it clear that all contract actions providing additional or supplemental benefits also require full conformance to the RRA. The individual further stated that only contractual actions for facilities which had been contracted for prior to October 12, 1982, should be exempt from this stipulation. In addition, he suggested that we should make it clear that all districts which amend their contracts to become eligible for the increased ownership entitlement must also make their full O&M payments annually.

Response: We believe that all of these suggestions have been accommodated in the rules as they are written.

Comment 6: One respondent suggested that safety of dam actions should not be considered a supplemental benefit which would require an amendment to a contract.

Response: We believe that actions such as these should be determined on a case-by-case basis by the Secretary and dealt with only after considering the attending circumstances. The rules reflect this approach.

Comment 7: One respondent suggested that all contractual actions, without exception, should be considered additional or supplemental benefits.

Response: We disagree that all contract actions should be interpreted as providing new benefits and therefore this suggestion was rejected.

Comment 8: Three suggestions were made that the section should clarify the treatment of districts which request funds under the R&B (Rehabilitation and Betterment) program loans.

Response: It is implicit in this section that a district which requests an R&B program loan would have to amend its contract to conform to the discretionary provisions of title II, as a condition for the loan. However, as stated in § 426.13(a)(5) of these rules, an R&B program loan cannot be used as an instrument to reinstate acreage limitation in a district which has become exempt.

Comment 9: One respondent stated that a deferral period of 6 months for payments due before the deferral was considered an additional or supplemental benefit was too short and should be extended considerably.

Response: The deferral period has been lengthened to 12 months, and this change is reflected in the rules.

Comment 10: Two respondents asked that the definition of what constitutes minor drainage and construction be expanded.

Response: These terms are used in their usual context to describe contracts that the Bureau of Reclamation executes with districts for such minor drainage and construction work. They usually refer to incidental construction work necessary to assure that project facilities continue to serve their intended purpose. We do ot feel further clarification of the term is necessary in the rules.

Comment 11: One respondent asked what the effect of this section would be on a district which has a contract but wants to expand its boundaries to include other areas and take out an additional loan for construction and facilities.

Response: Such an action on the part of the district would require either a new contract or constitute an additional or supplemental benefit. In either case, the district would be required to conform to the discretionary provisions of title II.

Comment 12: Two participants stated that the construction of fish and wildlife facilities should not be considered a benefit requiring an amendment to a contract.

Response: This type of action would fall under the provision that permits the Secretary to judge uncommon or unusual actions on an individual basis.

Comment 13: One person suggested that more definitive language be use to describe those actions that will be considered by the Secretary on a case-by-case basis to determine if they provided additional or supplemental benefits.

Response: This provision in the rules has not been changed. In this particular instance, the language in the rules must be general so that the Secretary's discretionary powers are not inhibited in the face of unusual or even unique contract actions.

Comment 14: Twelve participants requested clarification of R&B program loans as they relate to contract amendments.

Response: An R&B loan constitutes an additional or supplemental benefit and, therefore, requires contract amendment. R&B program loans, as they relate to existing contracts, have been addressed further in § 426.13(a)(5). This addition to the rules should accommodate all other concerns that have been expressed about this program.

43 CFR 426.5(b) Standard article for contract amendments

Comment 1: Six participants expressed concern over the standard article that is to be used in all contracts which are amended to conform to the discretionary provisions of title II. The principal concern dealt with the phrase in the standard article that makes districts subject to rules and regulations promulgated by the Secreatry of the Interior.

Response: That phrase has been deleted from the standard articles since it is a redundancy.

Comment 2: One person suggested that the standard article be deleted entirely from the rules.

Response: This comment was not accommodated because it is important that a provision be included in all contracts indicating that Reclamation law applies to those contracts.

Comment 3: One person asked that this provision be modified so as to assure that it would apply to both repayment and water service contracts.

Response: This suggestion was accommodated by inserting the words "or use of Federal facilities" after the word "water" in the first line of the standard article.

43 CFR 426.5(c) Master contract and subcontract arrangement

Note.—This paragraph has been added to help explain the relationship between master contracts and subcontracts under the law.

43 CFR 426.5(d) Individual elections to conform to the discretionary provisions of title II

Comment: Three participants were concerned about how long the irrevocable election would continue to apply.

Response: This rule clearly states that the irrevocable election is binding on the persons making the election and not on the land. In other words, the election covers all irrigation land in the holding of the person making the irrevocable election, regardless of whether that person is a lessee or an owner, and is permanent with that elector. If the land were to change hands, however, the provision of Reclamation law which would apply would depend on the qualifications of the new owner or lessee.

43 CFR 426.5(d)(2) Disposition of irrevocable election forms

Comment: Several participants stated that the irrevocable election form should be filed with the Bureau of Reclamation, not the district.

Response: This portion of the rule has been changed to show that the irrevocable election forms will be filed with the Bureau of Reclamation and copies sent to the districts.

43 CFR 426.5(d)(3) District reliance on election information

Comment: Nine comments were received objecting to the phrase in this subsection of the rule that would require districts to report to the Bureau of Reclamation any information they know to be inaccurate or false in the individual election.

Response: This requirement has been deleted because the irrevocable election form will be filed with the Bureau of Reclamation, and the district will have no direct involvement in the initial filing of that form.

43 CFR 426.5(e) Time limits

Comment 1: Three participants asked if there were time limits on a district amending its existing contract to conform to the discretionary provisions of title II.

Response: The first sentence of subsection 1 indicates there are no time limits for a district to amend its contract.

Comment 2: One person wanted to delete the last sentence of subsection 3 identifying provisions of the law which apply to districts or individuals who do not amend to comply with the discretionary provisions of title II.

Response: This sentence was not deleted because it is an accurate and necessary statement of fact; however, it has been modified to show how acreage limitation will apply to irrigation land acquired before December 6, 1979, in districts that remain under the 160-acre limitation of prior law.

43 CFR 426.6 Ownership Entitlement

43 CFR 426.6(a) In general

Comment 1: One participant stated that the rules increase acreage for large landowners but only at the expense of increased costs and oppressive restrictions. They decrease acreage for small landowners and appear designed to abolish small farms.

Response: The rules are a reflection of the RRA. They do not decrease ownership entitlement for anyone. In fact, certain options available under the discretionary provisions of the law actually allow farmers to increase their ownership to 960 acres. Additionally, farmers may request equivalency if they become either qualified or limited recipients. This, too, will increase their ownership entitlement.

Comment 2: Two respondents stated that land which does not receive a full water supply should not be included in entitlement determinations.

Response: By law, all land receiving irrigation water must be considered in entitlement determinations; however, if the district requests equivalency, water shortages will be a consideration in determining equivalency factors.

Comment 3: One respondent asked that the Bureau of Reclamation avoid any hint of the applicability of law to ground water.

Response: Existing contracts which have provisions which address ground water will be honored. On the other hand, the United States should not preclude the possibility of ground water being considered as part of the project water supply on future projects.

Comment 4: One respondent asked if by conforming to all provisions of title II a district was authorized to increase the acreage it served over original authorizations.

Response: By conforming to all provisions of title II, the district is not authorized to increase the number of acres irrigated. Individual landowners as qualified recipients, however, are entitled to increase their ownership limitation from 160 to 960 acres.

Comment 5: A respondent asked if a qualified recipient must sell his land which is over 960 acres if it is not being irrigated or if it is being irrigated with non-Federal water.

Response: The law does not require a person to sell any of his or her land. The only restriction is that a person is authorized to irrigate no more than 960 acres of owned land with water from a Federal Reclamation project. If that person owns more than 960 acres, he or she must designate the nonexcess land or the land eligible to receive water to distinguish it from the excess land or the land that is ineligible to receive water. The excess land may then receive water if it is placed under recordable contract.

43 CFR 426.6(b) Qualified recipient entitlement

Comment: Several people disagreed with the very concept of increasing acreage entitlement from 160 to 960 acres. They felt that farmers should receive subsidized water on no more than 160 acres. Some people also felt that if the small-farm concept were maintained, people would have a better opportunity to get started in farming.

Response: The RRA is Congress' attempt to deal realistically with modern farming practices as they are found in Reclamation projects. Congress made the decision that 960 acres is a realistic ownership size.

43 CFR 426.6(b)(2) Husband and wife

Comment 1: One respondent asked how acreage entitlement would be computed in the case of a single man who owns 600 acres and marries a woman who also owns 600 acres.

Response: The decision as to whose land is to receive the irrigation water could be made by the married couple. As a couple, they are entitled to receive water on 960 acres of owned land. They would not have to sell the remainder, but it would not be eligible for water unless it were placed under recordable contract.

Comment 2: Several people stated that we were penalizing people for being married. In their opinion, these rules are

denying married couples the same rights as a single person.

Response: The RRA specifically provides that a married couple and dependents be treated as an individual; thus, the couple is entitled to own 960 acres of irrigation land. A single person, by law, also is treated as an individual and is entitled to own 960 acres of irrigation land.

Comment 3: One respondent stated the rule treating husband and wife as an individual for ownership purposes should only be enforced prospectively.

Response: The law does not permit such an interpretation.

Comment 4: Two people offered the opinion that the rules should be more clear in specifying that children who live at home but who are not dependent on their parents are allowed to own 960 acres each.

Response: Whether or not a family member living at home satisfies the definition of a dependent depends upon whether or not that person fits the definition of a dependent as that term is defined in the Internal Revenue Code of 1954 as well as the regulations issued thereunder.

43 CFR 426.6(b)(3) Multiownership arrangements

Comment 1: Several people commented that family partnerships or corporations should be allowed to be of unlimited size provided that no family member owns more than 960 acres in the corporation or partnership.

Response: The law does not permit such an interpretation. If corporations or partnerships were allowed to exceed 960 acres, the full-cost provisions of the law could be evaded.

Comment 2: Another person stated that the rules could be interpreted as permitting a husband and wife to double their entitlement through separate incorporation.

Response: The law and these rules are specific on the issue of husband and wife entitlements. While they are certainly free to incorporate or form a partnership, their overall entitlement still remains 960 acres. Separate husband and wife corporation or partnership formations shall not be used as a means to exceed the 960-acre entitlement.

Comment 3: Two people commented that more than 25 shareholders should be allowed in a family corporation

Response: The law does allow for more than 25 shareholders in a family corporation; however, if there are more than 25 shareholders, that corporation becomes a limited recipient rather than a qualified recipient, and the entitlement is reduced thereby for that corporation.

43 CFR 426.6(b)(4) Trusts

Comment 1: This section has been amended by deleting the final sentence which stated, "Moreover, the quantity of the land in a trust receiving irrigation water cannot exceed the ownership entitlement of title II."

Response: This adjustment was made because, as several respondents pointed out, the law puts no limitation on the size of a trust. However, the law does limit the amount that any beneficiary in a trust may own, that is, 960 acres in the case of a qualified recipient, 640 acres in the case of a limited recipient, or 160 acres in the case of a party subject to prior law.

Comment 2: Several people offered the opinion that the trusts should also not be subject to full cost.

Response: While trusts are not subject to acreage limitation, there are circumstances under which trusts could become subject to full cost. For example, if a trustee leased trust land to a farm operator and that farm operator was already at his limitation, then the trust land would become subject to full cost through leasing.

Comment 3: A respondent suggested that the rules should not allow trusts to become the means by which the RRA can be circumvented.

Response: The rules restate the conditions that are set forth in the law concerning trusts. The law places no limit on the amount of land that can be in a trust and receive irrigation water, so long as none of the beneficiaries in that trust receives water on more than 960 acres.

43 CFR 426.6(c) Limited recipient entitlement

Comment 1: Several respondents stated that they were confused over how the law would apply to operating partnerships when the land is owned by other individuals.

Response: The application of the law depends on whether or not the operating partnerships hold leases with the individual owners. If they hold leases, then the partnership will be judged on its merits for the application of full cost. In other words, if the partnership is judged to be a limited recipient, it would have to pay the full cost on irrigation land farmed above 320 acres if that partnership was receiving water prior to 1981. If it did not receive water prior to 1981, it would have to pay the full cost on all land farmed. If the partnership were considered to be a qualified recipient, it would have to pay the full cost on land leased above 960 acres. The only time that an operating partnership would not be subject to full cost would be in the case where it is simply acting in a management capacity and has accepted no risk in the success of the farming operation.

Comment 2: Another respondent brought up the case of a corporation which is presently irrigating 600 acres in a district. This respondent felt that the corporation was being unduly penalized under the law.

Response: In fact, the corporation is only entitled to irrigate 160 acres under present law. If they are presently irrigating 600 acres, they are doing so illegally. Secondly, under the new law their ownership entitlement would go from 160 acres to 640 acres if they amended, and all of their acreage could then be legally irrigated. However, they would, it is true, have to pay the full cost on all acreage irrigated above 320 acres.

Comment 3: One respondent felt that a subsidiary corporation's owned land should not be counted against the parent corporation's entitlement. This person felt that the definition of a limited recipient contained in the law allowed for this interpretation.

Response: This interpretation would mean that a parent corporation, as a limited recipient, could own unlimited irrigation land by simply placing all the land that it owned in subsidiary corporations. This is simply an incorrect interpretation of the law.

Comment 4: One respondent explained that given the way the draft rules were written, a qualified recipient, through ownership in a number of limited recipiencies, could own more than the 960 acres allowable for a qualified recipient.

Response: We corrected this oversight in the final rules by stating that if a qualified recipient has more than a 4 percent share in a limited recipiency, he must declare that ownership on the certification form. If he owns less than 4 percent, he need not report it.

Comment 5: One respondent asked how he could be in compliance with the law if the State in which he owns land will not allow him to subdivide the blocks of land his realty company owns.

Response: Reclamation law does not limit the amount of land an individual or party may own. The law only limits the amount of owned land that a person may serve with irrigation water. Thus, subdivision of owned land is not necessary to achieve compliance with Reclamation law.

43 CFR 426.6(d) Party subject to 160-acre limitation established by prior law

43 CFR 426.6(d)(1) Individuals

Note.—The provisions dealing with ownership under prior law have been revised

to show that if a person has multidistrict ownerships and the person owned the land in those districts prior to December 6, 1979, they are entitled to maintain that ownership provided that they own no more than 160 acres in each district. If purchases were made after December 6, 1979, westwide application will apply. The 160-acre westwide ownership provision in the draft rules was one of the most controversial, with people arguing both sides of the case. There were those who thought it should be on a westwide basis completely, and there were those who, because of provisions in their existing contracts and the posture of the Bureau of Reclamation in the past regarding cross-district ownership, felt that ownership should only be applied on a district basis. The approach in these final rules recognizes past practices, but it also conforms to the Solicitor's opinion of December 6, 1979, which stated that acreage limitation must be applied on a westwide basis.

43 CFR 426.6(d)(2) Husband and wife

Note.—This section has been revised at the suggestion of one participant to include the phrase "or surviving spouse until remarriage." This revision conforms with existing law.

43 CFR 426.6(f) How ownership entitlement is to be computed

Note.—This section has been expanded by adding three examples of how entitlement will be computed.

43 CFR 426.6(g) Multidistrict ownerships

Note.—This section has also been revised to show that in a multidistrict ownership which the parties are still subject to the 160-acre entitlement of prior law, cross-district ownerships will be accommodated, provided title to the land was acquired before December 6, 1979.

43 CFR 426.6(h) Loss of eligibility

Note.—This section has been revised to show that if an owner purchases land, and irrigation water for that land is not available because facilities have not been constructed to provide such water, that landowner may place said land under a recordable contract when water does become available. This addition makes the rule conform more closely to existing Reclamation policy dealing with excess land purchases.

Comment: One respondent stated that the rules should show that an owner who purchases himself into excess status, inadvertently, should not have to sell the excess land at a price approved by the Secretary.

Response: This suggestion has not been accommodated. The law makes no provision for ignorance thereof. Furthermore, with certification and reporting process as outlined in these rules, it will be extremely difficult for a landowner to buy or purchase himself into excess status inadvertently.

43 CFR 426.7 Leasing and Full-Cost Pricing

43 CFR 426.7(a) What constitutes a lease

Comment: One person suggested that a more definitive explanation of what constitutes a lease be given.

Response: This comment was not accommodated because we believe that the broad criteria for a lease that is in the rules is preferable to attempting to define the details of what may be in a lease.

43 CFR 426.7(a)(1) Exceptions

Comment 1: One person suggested that the rules explain what is meant by the term "risk."

Response: This suggestion was not accommodated because the language in the rules is sufficiently descriptive to permit administration of the lease provisions.

Comment 2: Two participants suggested we attempt further development of the term "limited use of land," stating that the provision in the rules dealing with this term was not definitive.

Response: No change was made in the rules to accommodate this comment because the rule that discusses the limited use of land for incidental grazing and other purposes is adequate and properly addresses these situations.

43 CFR 426.7(b)(1) The form and provisions of a lease

Comment 1: There were comments from seven persons expressing concern that districts would have to verify leases, maintain copies of leases in their records, and become involved in determining the adequacy of leases. They feel this sort of recordkeeping is not their function. They also stated that many leases are oral and that some consideration should be given to honoring that type of lease.

Response: Section 227 of the RRA, which this rule interprets, requires that all leases be written and their term cannot exceed 10 years except in the case of leases of land for the production of perennial crops having an average life of more than 10 years, in which case, the leases cannot exceed 25 years. There is no exception in this provision of the law for existing leases, nor is there any provision that would permit recognition of oral leases. The rule does not require that the districts maintain copies of the leases nor does it require districts to verify leases. Both the rules and the law simply require that the leases be available for the inspection of the Secretary upon his request.

Comment 2: Four persons stated that some existing leases for the production of nonperennial crops extend for longer than a period of 10 years, suggesting that these leases cannot be broken and, therefore, should be honored.

Response: Section 227 of the RRA clearly limits the term of leases for the production of nonperennial crops to 10 years and the rules reflect this provision of the law.

Comment 3: One person suggested that the requirement that leases be written should only apply to leases of 50 acres or more.

Response: The RRA makes no provision for such an exclusion and, therefore, the rules have not been revised to reflect this comment.

Comment 4: One person stated that the Secretary has no need to be involved in individual lease arrangements if the certification forms are on file as required by the RRA.

Response: The Secretary will not review all leases. The rules only require that the leases be made available for his inspection upon request.

43 CFR 426.7(b)(2) Written leases in existence prior to October 12, 1982

Comment: There were five persons who, in effect, stated that written leases in effect on October 12, 1982, should be grandfathered and that the lease provisions of the rules should not apply to such leases.

Response: Section 227 of the RRA makes no exceptions for written leases in effect on October 12, 1982.

43 CFR 426.7(c) Full-cost pricing thresholds on leased land

Comment 1: There were 12 persons who objected to the provisions in the rules that impose restrictions on leasing. In addition, those commenting objected to the provisions in the rules dealing with the payment of full cost on leased land because of the impact it could have on the cost of the lease to the farmer or on the return in rent to the landowner.

Response: The RRA establishes the concept that full cost will be charged for all water deliveries to leased land in excess of the entitlement threshold established by the law. The rules simply state how this requirement will be implemented by the Secretary.

Comment 2: One person expressed concern about the payment of assessments on land which is leased and about whether or not the full-cost charge would constitute a lien on that land if it were not paid by the lessee. The suggestion was that the rules should establish a procedure that would require the lessee to pay the full-cost rate for the land leased.

Response: This issue has not been addressed in the rules because the collection of the charges is a matter

between the district and the landowner or the lessee. The United States cannot and should not by its rules establish procedures for the district to use in collecting assessments against the landowners in that district.

Comment 3: One person expressed concern that districts do not have sufficient data for assessing full-cost charges.

Response: This comment was not specifically addressed in the rules because the certification and reporting process should provide adequate data to the districts for this purpose.

43 CFR 426.7(c)(1) Full-cost threshold for qualified recipients

Comment: One person questioned the need for the term "rate specified in the district contract" and also suggested that an exemption from full-cost pricing should be made in this provision for land which is under recordable contract.

Response: Neither of these suggestions was accommodated in this rule because we believe it important that the rate be specified in this particular section. The treatment of land under recordable contract is addressed in section 426.11 of the rules.

43 CFR 426.7(c)(2) Limited recipients

Comment 1: Two persons questioned the provision in this rule which states that limited recipients are eligible to receive irrigation water at the contract rate for no more than 320 acres of owned land, stating that the water pricing for a limited recipient should be the same as that for qualified recipients.

Response: The rules reflect the provisions in the RRA in regard to this provision and, therefore, could not be changed.

Comment 2: One person suggested that the payment rate for limited recipients should not be included in this section in that it applies to owned land as well as leased land.

Response: This comment was not accommodated. It is important to the application of the rules that the payment rate and the basis for it be expressed in this section of the rules.

Comment 3: There were two comments that suggested the deletion of the term "in perpetuity" in example 1.

Response: This deletion was made.

Comment 4: One person suggested the deletion of the words "and has continued to receive it" in the fourth sentence of example 3.

Response: This deletion has been made so as to correctly reflect the application of ownership entitlement to limited recipients.

43 CFR 426.7(3) Leases subject to the 160-acre ownership limitation established under prior law

Comment: There were 52 respondents who voiced strong objection to section 203(b) of the RRA, which mandates that parties electing to remain subject to prior law must pay the full cost on irrigation water delivered to leased land in landholdings in excess of 160 acres after April 12, 1987. They stated that this provision, in effect, abrogated existing contracts with districts and further contended the provision was unconstitutional. The persons making these comments recognized that the provision in the rules was based on a provision in the RRA; however, they strongly recommended that the rules not provide for the implementation of this provision of the act. There were comments from 19 other persons expressing various concerns about the impact of section 203(b) on their operations. One person expressed support for full implementation of section 203(b).

Response: These regulations have been written to implement Public Law 97–293 as it was passed by Congress. However, the Department of the Interior has major concerns over the relationship of section 203(b) to past U.S. contract commitments. The Secretary is also concerned about the potential impact of this section of the financing abilities of some irrigation districts. The Department is considering proposing legislation to repeal section 203(b). If section 203(b) is not repealed by January 1, 1987 however, then the Department will take all actions necessary to fully implement this section of the law.

43 CFR 426.7(d) Leasing of land subject to full cost

Comment: One person suggested that a provision should be added to the rules that would not allow leasing to become a means of escaping full cost for lands that would otherwise be subject to full cost.

Response: A provision addressing this type of action was added to this section of the rules.

43 CFR 426.7(f) Restrictions on designating full-cost land

Comment: Two persons suggested that this section be rewritten for clarification purposes and that an example be added.

Response: This suggestion was accommodated.

43 CFR 426.7(g) Multidistrict landholding

Comment: One person suggested that the multidistrict landholding provision should only apply to districts which amend their contracts.

Response: This comment has not been accommodated because if a multi-district landholder becomes subject to the discretionary provisions of the title II in even one district, then all of his or her landholdings westwide become subject to these provisions.

43 CFR 426.7(h) Calculating full cost

Comment 1: Twenty-six persons expressed concern about calculating the full-cost rates. Generally, they are concerned about the costs to be included in the calculation, how they are to be determined, how construction costs are to be determined for specific projects, the treatment of costs as they relate to the delivery of different classes of water and the treatment of O&M costs.

Response: This provision in the rules implements the RRA's definition of full cost. It was not the intent of the rules to be definitive as to the procedures to be used to calculate full cost for each project, but rather to provide general guidance for making full-cost calculations. Detailed full-cost calculation procedures must be based on an analysis of each project, taking into consideration authorization for that project and other legislation, policy directives, and contract considerations. These detailed procedures will be addressed in guidelines and Reclamation Instructions, which are being prepared, and in even more detailed guidelines relating to specific projects as the full-cost determinations are being made for those projects. Concerns about full-cost procedures, while understandable, can best be addressed, in this case, through the process outlined above rather than through rules. The rules, therefore, have not been changed to accommodate these comments.

Comment 2: Four participants contended that if it is possible to allocate construction costs to determine full-cost rates, then it should also be possible for districts to convert their water service contracts, 9(e), to repayment contracts, 9(d).

Response: These comments relate primarily to CVP (Central Valley Project) contractors for which such allocations have not been made because of the continuing construction of the project. In districts where water service contracts exist, a method will be developed to determine the allocation of construction costs for full-cost determinations as of the date of the act. These costs will be used until new construction has been completed, at which time the full-cost rate will be recalculated to reflect those additional costs. Although the full-cost calculations can be made on an interim basis as outlined, it would be impossible to make a final cost allocation upon which a repayment obligation could be

established until the construction of the facilities required to serve that district have been completed. For this reason, there is no provision in the rules for a district to change its contract from a 9(e) to a 9(d) contract simply because interim cost allocations may have been made in order to calculate a temporary full-cost rate.

Comment 3: Eleven persons challenged the provision in the proposed rules which stated that for the purposes of calculating full cost, the accrual of interest would continue until a district amends its contract.

Response: This procedure was included in the proposed rules as an inducement for districts to amend their contracts at an early date to obtain a lower full-cost rate. A review of the law indicates there is a basis for establishing the full-cost rate as of the date of the act for all districts. The rules, therefore, have been revised to establish the full-cost rate as of October 12, 1982, for all districts.

Comment 4: Seventeen persons commented that by charging the full-cost rate for leased land we would preclude farmers from leasing because the cost would be too high.

Response: The full-cost rate that would be established would apply only to deliveries of irrigation water to lands in landholdings in excess of the entitlement established by law, 960 acres plus equivalency for qualified recipients, and 320 acres plus equivalency for limited recipients if the limited recipient received irrigation water prior to October 1, 1981. These provisions are mandated by the RRA.

Comment 5: One person suggested that the amortization period should be based on the life of the facility and not on the remainder of the contract term.

Response: The RRA establishes the amortization period stating that it should be the period required under Federal Reclamation law or applicable contract provisions. The rules reflect this requirement of law.

Comment 6: Eight individuals expressed concern about the procedures to be used in making interim cost allocations for the CVP.

Response: The cost allocation procedures in the rules reflect the requirements of law. Construction costs will be allocated to irrigation and other project purposes based on established Bureau cost allocation procedures. For the CVP, which is under construction, the full-cost rate will be established as of October 12, 1982, and will be modified as additional new construction is undertaken. Procedures to be used would be based on the provisions of law and the rules as set forth in this section; these provisions will be amplified by Reclamation Instructions to establish procedures for specific project situations.

Comment 7: One person pointed out that consideration should be given to previous costs that have been written off, and another person pointed out that planning costs have been considered nonreimbursable since 1970 and, therefore, should not be included in making full-cost calculations.

Response: These rules provide that credits will be taken into consideration in determining the costs that will serve as a basis for full-cost calculations, § 426.7(h)(1)(v). Language in the rules is broad enough to permit planning costs for projects to be treated in accordance with the law as it read at the time the costs were incurred.

Comment 8: One comment suggested that an example of the cost allocation procedure be included in the rules.

Response: We believe that the provisions are sufficiently definitive to preclude the need for such an example; therefore, it has not been included.

Comment 9: Three people suggested that a district's irrigation cost allocation should be used in calculating full cost only to the extent that facilities for which irrigation costs are allocated are required to provide service to a district.

Response: These comments were not accommodated because the rules already state that only facilities providing irrigation service will be used in making full-cost determinations. However, to go further and attempt to compute full cost based on the percentage of a facility actually being used would result in a constantly changing full-cost rate and require almost continuous recalculation.

Comment 10: Two people expressed concern about the provision dealing with O&M deficits; one stated that O&M costs associated with idle capacity in a system should not be considered as a deficit. The other stated that O&M costs for mainstem Corps of Engineers facilities allocated to irrigation which are not covered by a contract, should not be considered an O&M deficit.

Response: O&M costs for Corps of Engineers facilities assigned to project irrigation will be considered in calculating full-cost rates for that project as the law requires. O&M costs not assigned to a specific project or contractor will not be considered a project or contractor deficit.

43 CFR 426.7(h)(1)(v) Payments

Comment: Nine persons objected to the fact that the rules failed to give credit for power revenues in determining payments for full-cost calculations. By not crediting power revenues, they claim the Department of the Interior is not recognizing the ability-to-pay concept that has been authorized for those projects.

Response: A careful reading of the law and the Congressional reports indicates that Congress intended that the ability-to-pay concept be eliminated in making full-cost calculations. The full-cost rate is intended to remove the Federal subsidy by requiring a return of the capital costs not paid by the irrigator for water delivered to land exceeding his entitlement, including interest on those costs.

43 CFR 426.8 Operation and Maintenance

43 CFR 426.8(a) Districts with new or amended contracts

Comment 1: Fourteen participants challenged the legality of the procedure in the proposed rules which required a district with a water service contract to not only pay the full O&M costs due the United States annually but make annual payment toward construction equal to the amount being paid at the time of contract amendment. These persons making these comments pointed out that water service contracts have a fixed rate and that neither O&M nor construction costs are identified as a component of that rate. They reason, therefore, that it is improper to require the payment of a construction-component.

Response: The O&M provision in the proposed rules provided for establishment of a rate for districts that would pay the full O&M due the United States on an annual basis plus an amount for payment on construction equal to the portion of the district's payment to the United States that was applied to construction at the time the district amended its contract. The RRA only requires districts which amend their contracts to pay full O&M costs due the United States on an annual basis. The rules were revised to reflect this literal interpretation of the law in regard to the payment of full O&M costs due the United States by districts which amend their contracts to conform to the discretionary provisions of the law. Districts which amend their water service contracts will be required to pay the full O&M due the United States or the fixed rate set forth in their contract, whichever is greater.

Comment 2: One person suggested that the rules state that a district only be charged O&M costs for capacity used, not idle capacity, stating that the districts, in effect, will be penalized for having the foresight to contract early for

full facilities so as to provide service for all land in the district even though service for some of the land would not be necessary until later in the water year.

Response: The law provides no basis for making such an adjustment to the O&M rates. Much of the O&M costs will be associated with the power costs which will vary depending on the water used and the land served. Any additional O&M costs associated with unused capacity in canals would be minimal. Further, O&M is a reimbursable cost and, as such, is to be paid by those benefiting from the facilities regardless of what the costs are. The rules have not been changed to reflect the suggestion.

Comment 3: One person stated that the rules should make it clear that districts which presently pay full O&M costs will not be affected by the rules.

Response: The rule in this section applies to all contracts with districts which come under the discretionary provisions of title II and requires that the full O&M costs due the United States be paid annually under those contracts. It does not change existing contracts nor does it impose a requirement that the districts pay more than their full O&M under any circumstances. Clearly, districts, which under existing contracts pay full O&M, will not be impacted by this provision of the rules.

Comment 4: One person suggested that the rules should provide for full consultation between the Bureau of Reclamation and water districts in making O&M budgets and expenditures.

Response: These rules do not establish any different procedures for establishing O&M budgets from those that have been used in the past. In operating projects, the O&M budgets are determined primarily from past cost experience and reflect the funds needed to operate the projects in a safe and efficient manner. We believe present procedures are adequate and have not accommodated this suggestion in the rules.

Comment 5: Three participants suggested that O&M costs should be averaged over a 5-year period rather than being determined on an annual basis.

Response: The RRA requires an annual determination of O&M costs for districts with new or amended contracts and the rules reflect this requirement of law. The rules do provide that the Secretary will determine the schedule for the payment of O&M costs within the parameters provided in the rules.

Comment 6: One person expressed concern about the treatment in the proposed rules of replacement costs in determining O&M charges.

Response: We have compared this provision with current Bureau policies dealing with O&M charges and have revised the rules to reflect the procedures that the Bureau of Reclamation currently follows regarding replacement costs in determining overall O&M charges.

Comment 7: Several persons expressed concern that individuals in a district who exercise irrevocable elections would be paying a different O&M cost from other individuals who do not come under the discretionary provisions of the RRA.

Response: The RRA permits individuals to elect to come under the discretionary provisions of the act if a district does not amend its contract. By exercising such an election, the individual is required to pay the full O&M charges due the United States on an annual basis. Therefore, although there may be two different O&M rates in a district, the law requires such action, and the rules reflect the provisions of the law.

43 CFR 426.9 Class 1 Equivalency

43 CFR 426.9(a) In general

Comment 1: Ten persons indicated that before districts amend their contracts, more information should be made available to them concerning class 1 equivalency.

Response: The RRA provides that class 1 equivalency will be available to districts which enter into new or amended contracts which conform to the discretionary provisions of title II. There is no provision in law for the Bureau of Reclamation to make class 1 equivalency determinations before a district amends its contract. The rules, therefore, do not make such a provision. If a district is to have a class 1 equivalency determination, it must enter into an amended contract and make the request for such a determination.

Comment 2: There were seven comments from landowners in the CAP urging that special attention be given to the adequacy of the CAP water supply in making equivalency determinations.

Response: Although the rules do not provide any special consideration to CAP water users in making these determinations, the adequacy of a water supply is one of the factors that will be taken into consideration in making equivalency determinations. Under the rules, equivalency determinations will be made on a district basis using Bureau criteria and guidelines that are set forth in the rules and in the Reclamation Instructions dealing with land classification and equivalency determinations.

Comment 3: One person suggested that the Bureau of Reclamation did not have the manpower to accommodate requests from all districts; therefore, some simple formula for making equivalency determinations should be used.

Response: The Bureau of Reclamation has reviewed its existing land classification data and other information and believes that it can accommodate all equivalency requests received within a reasonable time frame.

Comment 4: One person suggested that the rules should provide that equivalency will apply to SRPA contractors.

Response: The only amendment to SRPA by the RRA is the provision that changes the acreage threshold at which interest will be charged landowners in districts with new contracts or which amend their contracts, from 160 acres per individual owner to 960 acres for qualified recipients and 320 acres for limited recipients. This suggestion, therefore, could not be accommodated.

Comment 5: One participant suggested that the rules should be broad enough so that some latitude exists for consideration of special conditions within individual districts.

Response: The equivalency criteria set forth in the rules is the same as that which has been used by the Bureau of Reclamation in its project planning processes. We believe there is sufficient flexibility in the proposed rules relating to equivalency to accommodate this comment.

Comment 6: One person asked how districts which have no class 1 land would be treated.

Response: The provision dealing with equivalency provides that the equivalency determination will be based on the land which is equivalent in production potential to the most suitable land in the local agricultural economic setting, i.e. class 1 land; therefore, in all districts there will be a class 1 land standard established to which other lands in the district can be equated.

Comment: One person suggested this section goes far beyond the intent of the law.

Response: The equivalency provisions in the rules are, in our judgment, based on the law and what Congress intended in providing for the use of class 1 equivalency.

Comment 8: One person suggested that the rules should clearly state that districts requesting equivalency are also subject to full-cost pricing.

Response: The only way a district can receive equivalency is by entering into a new contract or amending its contract, thus bringing that district under the full-cost pricing provisions of law.

Comment 9: One individual asked how landowners who have land that is not within the boundaries of the district but which, nevertheless, is receiving irrigation water, would be affected by the class 1 equivalency provision.

Response: The class 1 equivalency provision states that land which is not classified will be treated as class 1 land; therefore, if such land is receiving irrigation water and is not classified, it will be treated as class 1 land until it is classified.

43 CFR 426.9(b) Data requirements and use.

Comment: Fifteen persons contended that equivalency should be applied on a westwide basis rather than on a district basis. These comments came primarily from representatives of districts where the growing season is relatively short.

Response: A review of the class 1 equivalency procedures set forth in the law and the Congressional committee reports on equivalency, indicates that it was the intent of Congress to provide for the use of equivalency on the same basis as in the past. In the past, equivalency has always been on a district or project basis. The rules reflect this procedure.

43 CFR 426.9(b)(1) Definition of class 1 land

Comment: Three people suggested that the Bureau of Reclamation should use the land classifications that have been made by the Soil Conservation Service in making class 1 equivalency determinations.

Response: The Soil Conservation Service uses only physical factors of the soil in their land classification work, whereas the Bureau's land classification standards cover a wider range of factors. The Bureau's standards involve various economic criteria to determine the productivity of the various land classes and, therefore, is not comparable to the Soil Conservation Service land classification criteria. Because the Bureau's land classifications are more comprehensive than the Soil Conservation Service classifications, it is inappropriate to consider the Soil Conservation Service classifications.

43 CFR 426.9(b)(2) How land classes are determined

Comment 1: There were 11 comments received concerning the factors that should be used in classifying land. Some of the comments indicated that only physical factors should be used; some indicated that factors including profitability, marketing proximity, and transportation charges should be considered; and several comments indicated that it was improper to just use physical factors.

Response: The wide range of comments on this particular provision of the rules indicates that there is no consensus among districts and others interested in this activity. The rules reflect criteria and procedures that the Bureau of Reclamation has used in the past in making its land class determinations. The Bureau standards and criteria appear to be the most suitable for making land class and equivalency determinations on irrigated land.

Comment 2: Eight persons stated we should include all equivalency factors in the rules that were listed in the RRA.

Response: We have reviewed the factors included in the proposed rules and have added to the final rules all the factors that were in the law. Two of the factors were inadvertently omitted in the proposed rules.

43 CFR 426.9(b)(6) Special considerations

Comment: Eight people suggested that more than three land classes be considered in making class 1 equivalency determinations. Several persons asked how land in class 4, special-use land class, would be allocated to the other three classes. There were three comments indicating that class 6 should be considered an irrigable land class for equivalency purposes.

Response: The class 1 equivalency procedures established were simplified so as to eliminate the use of special land classes and include those lands in either class 1, 2, or 3. This can be accomplished fairly easily and still reflect the relative productivity of these class 4 or special-use land classes. Class 6 land has been considered nonirrigable land in Bureau land classification procedures and will continue to be so considered.

43 CFR 426.9(d) Land classification costs

Comment 1: Five persons objected to the provision of the rules that would require districts to pay one-half of the cost of land classification work if the project was authorized prior to 1924.

Response: The basis for this rule is that land classification was not a provision of Reclamation law until 1924. There is no specific authorization in law for the Bureau of Reclamation to classify land for projects authorized prior to 1924. The one-half payment was derived from the provision in the 1939 Reclamation Project Act dealing with reclassification of project land whereby districts are required to pay one-half of those costs.

Comment 2: One person questioned the authority given to the Secretary to require the districts to pay for the costs of making the equivalency determinations.

Response: The matter of making equivalency determinations is for the benefit of a specific district, and there is ample authority in general Reclamation law for the Secretary to require reimbursement from the districts for making such determinations.

Comment 3: There was one comment to the effect that the Bureau of Reclamation should permit private consultants to perform equivalency determinations and land classification work.

Response: For most districts, the land classification work that will be required for equivalency determination has already been accomplished and will be utilized. We believe that the Bureau of Reclamation has the resources and expertise necessary to make the land classification and equivalency determinations efficiently, and the rules reflect this belief. However, the rules do not preclude the use of private consultants if the need arises.

43 CFR 426.9(g) Individual requests

Comment: Twenty-eight people objected to the provisions in the proposed rules that restrict requests for class 1 equivalency to districts which have conformed to the discretionary provisions of title II. These people suggested that individuals who exercise irrevocable elections should also have the opportunity to request equivalency.

Response: The law is silent on this particular issue and the interpretation given to law by the Bureau of Reclamation in writing the proposed rules was that the Congress intented the law to apply on a district basis. Integral to our thinking was the fact that the Bureau of Reclamation, in making class 1 equivalency determinations, must make those determinations on a district or project basis. Nevertheless, we have changed the rules to permit individuals who exercise irrevocable elections to request equivalency. However, the equivalency determinations must still be made for the entire district and must be requested by the district. The district will pay the costs for making those determinations. The matter of the payment of the costs between the district and the landowner will be a district matter and not of concern to the Bureau of Reclamation.

43 CFR 426.9(h) Excess land

43 CFR 426.9(h)(1) Protection during classification

Comment: One person suggested that there should be a penalty if a district delays making a request for equivalency from a person with a recordable contract which has less than 6 months remaining to maturity.

Response: This request has not been accommodated. There is not need for a penalty to be imposed on the district by the United States in these instances. The failure of a district to act would undoubtedly result in some action being brought by the owner of land under recordable contract against the district.

43 CFR 426.9(h)(2) Protection during appeal

Comment: One person suggested that the Secretary should not have the right to proceed with sale of excess land in those cases where he has determined an equivalency determination appeal is, in reality, an attempt to thwart the sale of the excess land.

Response: We believe that this provision in the rules is reasonable and does provide protection to the United States and those who want to purchase excess land. It assures that excess land will be disposed of as expeditiously as possible.

43 CFR 426.9(i) Full-cost charges

Comment: Five persons suggested that it is not fair for the landowner to pay full cost while equivalency determinations are being made without reimbursement for any overcharges once the equivalency determinations have been completed.

Response: This was an oversight in writing the proposed rules. The final rules have been changed to include a provision stating that the landowner will be reimbursed for any advance he or she made for full-cost land which is subsequently determined to be within his or her entitlement as a result of equivalency determinations.

43 CFR 426.9(k) Existing equivalency determinations

Comment: One person suggested that a district should not have to pay for reclassification work that is not necessary or required.

Response: There is no provision in the rules that requires a district to pay for reclassification of their land in making equivalency determinations unless the district requests a reclassification. If there is existing land class data available, that data will be used.

43 CFR 426.10 Certification and reporting requirements

43 CFR 426.10(a) Certification

Comment 1: Fifty-two people expressed concern over the increased paper work and financial requirements that would be imposed on districts to carry out the certification process. These concerns were based primarily on draft certification forms the districts had an opportunity to review during the comment period on the proposed rules.

Response: The certification and reporting forms that were submitted to various water user groups for their review during the comment period on the proposed rules were preliminary in nature. Many of those who reviewed the forms assumed that each individual would have to complete all eight forms that had been developed. This is not the case. A landholder will only be required to complete the form that is applicable to his or her particular form of landholding. The certification and reporting procedures are being reviewed and the forms are being revised to provide a more simplified process. A form has been designed for the use of individual landholders who constitute approximately 85 percent of the landholders. This form is relatively short and will require a minimum of information from the landholder and minimum time to complete. Multiple ownership arrangements are required to complete a more detailed form. These ownerships generally are larger and more complex and have access to legal or other professional assistance in compiling the information that will be necessary to complete the certification and reporting forms. Every effort has been made to simplify the forms so as to minimize the burden on water users and districts receiving Federal Reclamation project water.

Comment 2: There were five persons who objected to the certification and reporting process in general and the intrusion on individual privacy.

Response: This process is necessary to assure that the benefits provided by the Federal Reclamation program are in accordance with the conditions of law that relate to those benefits. The certification and reporting process is essential to the successful administration of the RRA.

Note.—A provision has been included in the rules that requires an individual who has executed an irrevocable election to file a statement signed by a landowner, for land the elector leases, whereby the landowner concurs with the inclusion of his or her land in the elector's landholding.

43 CFR 426.10(b) Reporting

Comment: There were 37 persons who stated that districts and landowners should not have to certify or report until they amend their contracts to come under the discretionary provisions of the RRA.

Response: The RRA requires that landholders in districts which come under the discretionary provisions of title II provide a certificate of compliance as a condition to the receipt of irrigation water. The RRA also provides that the Secretary can require reports as he deems necessary to implement the law. In order to effectively administer the law, it will be necessary to have adequate information on farm operations receiving irrigation water from Federal Reclamation projects, including operations in districts which choose to continue under prior law. Information is needed in these districts to assure compliance with the ownership limitations of law. The certification and reporting requirements will be kept to a minimum, consistent with the proper administration and enforcement of the law.

43 CFR 426.10(c) Certification form data requirements

Comment: Sixteen persons stated that the reporting forms should be kept simple so as to assure that the farmers will complete them properly.

Response: A concerted effort has been made to simplify the reporting and certification process. The new process will provide a form designed for individual landholders that is short and relatively easy to complete. This form will apply to approximately 85 percent of the landholders. Those landholders with more complex ownership arrangements will be required to fill out a more complex form, but they should have the expertise available to them to assist in completing this report.

Note.—A provision has been added to the rules to require shareholders in limited recipiencies to be identified on the certification form if they own more than 4 percent of that recipiency.

43 CFR 426.10(d) Schedule for completing certification and reporting forms

Comment 1: Twenty-six persons commented to the effect that annual certification or reporting is unnecessary and should only be required when a change occurs in a landholding.

Response: The certification and reporting process does not require an annual completion of the full certification or reporting form if there has been no change in the landholding from one year to the next. If there has been no change in the landholding, the only requirement will be a short form from the landholder so verifying. The districts will be required to maintain the most current full report of an

individual's landholding and the last annual verfication report for their records.

Comment 2: Three persons stated that the 15 days allowed in the rules for landowners and lessees to report changes in their landholding was not adequate and that it should be extended.

Response: This provision was not changed. We believe the 15-day period will provide adequate time to a landholder or a lessee to report changes in his or her landholding to the district. Such prompt reporting to the district is essential to assure proper administration of the acreage limitation and full-cost pricing provisions of the Federal Reclamation law.

43 CFR 426.10(f) Exemptions

Comment 1: There were 17 persons who stated that the exemption for individuals owning 5 acres or less was too small and that it should be increased.

Response: This exemption has been increased to 40 acres westwide for a landholder.

Comment 2: Eight persons suggested that districts which have paid out their construction charges and are thereby exempt from Reclamation law should also be exempt from the reporting and certification requirements.

Response: A provision has been incorporated in the rules, in § 426.13(a)(2), providing for an exemption to such districts.

Comment 3: Two persons commented to the effect that SRPA loans should not be subject to the certification and reporting requirements.

Response: There are no requirements under the law for SRPA contractors to submit certification or reporting forms. The only reports SRPA contractors will have to submit will be the same as those they have been required to submit in the past under the SRPA. Section 426.21(c) addresses this situation.

Comment 4: There was one comment to the effect that districts of less than 15,000 acres should be exempt from the certification and reporting process.

Response: There is no basis for such an exemption. Information from such districts will be needed to assure compliance with the provisions of Reclamation law.

Comment 5: Two persons stated that in districts which have a master-subcontract type of arrangement with another contracting district, only the subcontractors should be required to comply with the reporting and certification requirements of the rules.

Response: The rules have been modified in § 426.5(c) to incorporate a provision that accommodates this request, provided the United States is a party to the subcontract.

43 CFR 426.10(g) District Participation

Comment 1: Seventeen persons stated that there should be a definite time limit on how long the districts will be required to maintain the certification and reporting forms.

Response: A provision has been incorporated in the rules stating districts will be required to keep on file the current long form and the last annual short form. Superseded records can be discarded after 3 years.

Comment 2: One person stated that the Bureau of Reclamation should assign a project certification specialist to each project to assist farmers in completing the certification and reporting forms.

Response: This comment was not accommodated in the rules; however, Bureau personnel will be available to assist the districts and farmers to the greatest extent possible in completing the certification and reporting forms.

Comment 3: One person commented to the effect that the information gathered in the certification and reporting process should not be subject to freedom of information requests.

Response: The Bureau of Reclamation intends to provide for the protection of the information collected in the certification and reporting process to the greatest extent possible consistent with law.

Comment 4: There were 31 comments from participants expressing concern about the extent of district involvement in the reporting and certification process and the problems districts will experience in getting the information to complete the forms.

Response: The rules have been modified to explain the extent of district responsibility in the reporting and certification process and the degree of their responsibility for the accuracy of the information submitted by the landholders. These provisions, in effect, relieve the districts of responsibility for the accuracy of the information submitted by landholders.

43 CFR 426.10(i) False statements—failure to report

Comment : There were 11 comments from persons expressing concern over the provision in the certification and reporting section dealing with the penalty for false statements. There were also four comments expressing concern about the provision that will require curtailment of water deliveries for landowners who fail to submit reports.

Response: These provisions are incorporated in the rules to assure that individuals and districts will comply with the certification and reporting requirements. They are not intended to impose any undue burden on the landholder and are only in the rules to assure, to some degree, that the certification and reporting requirements, essential to the proper administration of the RRA, are complied with.

43 CFR 426.10(k) OMB approval

Note.—A section has been added to the rules indicating that OMB has approved the use of the certification and reporting forms.

43 CFR 426.11 Excess Land

43 CFR 426.11(a) In general

Comment 1: One respondent suggested that the phrase "or controlled by any landholder" be deleted because excess land, as the term has been used, relates only to owned land.

Response: This provision of the rules has been revised to eliminate any indication that the term "excess land" includes leased land.

Comment 2: One person suggested the terminology "or other involuntary process" could be used as a catchall and should not be included as a basis for water delivery.

Response: The use of this terminology in this provision of the rules is compatible with it use in the RRA in sections 216 and 224.

Comment 3: One person pointed out that the use of the word "or" in identifying the three conditions in this section makes the section unclear as to whether the three conditions are conjunctive or disjunctive.

Response: This condition in this section is disjunctive, and the provision has been clarified to so indicate by adding the phrase "if any one" to this section.

43 CFR 426.11(b) Designation of nonexcess land

Comment 1: One person suggested that the phrase "and the entire landholding is in one district" be deleted from this provision.

Response: This phrase was included to cover situations where a landholder has land in more than one district. In those instances, if the landholder is subject to the discretionary provisions of title II or the land was acquired after December 6, 1979, all land must be taken into consideration in determining the landowner's excess land. The nonexcess designation provisions in contracts provide that the landowner designate his or her nonexcess land within a specified time. If the landowner fails to designate, the district in which the land is situated will designate. If the district fails to so designate, then the Secretary will designate the landowner's nonexcess land. If a landowner owns

land in more than one district, however, it would not be possible for any of the districts in which he or she owns land to make a designation for the landowner; therefore, the phrase is necessary in this rule to provide procedure for nonexcess designations for multi-district landowners.

Comment 2: One individual suggested the 30-day period provided in the proposed rules was inadequate to make a nonexcess land designation.

Response: The time provided in this rule is the same as that provided in existing contracts and has not been a problem for landowners up to now; therefore, this suggestion has not been accommodated.

Comment 3: One person suggested that a phrase be included in § 426.11(b)(3) that would indicate land which is redesignated to excess from nonexcess status must be sold at a price approved by the Secretary.

Response: The phrase was not included because such a requirement is implicit with land that is in excess status.

Comment 4: A suggestion was made by one participant to delete the provision which requires the redesignation to be approved by the Secretary.

Response: This deletion was not made because it is necessary for the change in designation of nonexcess land to conform to the requirements of law.

43 CFR 426.11(c) Treatment of land ineligible under prior law

Comment 1: Seven persons took exception to the provision in this rule that would require owners of ineligible land to exercise an irrevocable election to come under the discretionary provisions of title II by April 12, 1987, in order to receive irrigation water for that land. They maintained there should be no time limit, implying that all ineligible land should be considered eligible without any action on the part of the landowner.

Response: There is no specific provision in the RRA that deals with the treatment of land ineligible under prior law. The initiative for this provision in the rules came from the Department of the Interior when it became evident during the hearings held prior to the publication of the proposed rules that there was considerable acreage not receiving irrigation water because either it had been sold out of excess status without receiving Secretarial approval, the period for executing recordable contracts had expired, or the landowner had failed to comply with certain other requirements of law. Some of this land has changed hands several times since the first transaction which made it ineligible. The Department determined that to increase district and farm efficiency, this land should be permitted to become eligible through individual election or contract amendment, but it would be necessary that the action be taken within a reasonable time frame; thus, the April 12, 1987 cutoff date. This grace period is the same as that established by Congress in section 203(b) of the RRA for existing contractors to amend before becoming subject to full-cost provisions for all land leased above 160 acres and thereby continues to reflect the intent of Congress to encourage water users to come under the discretionary provisions of title II at an early date. The land that would be affected by this section is not now eligible for and should not be receiving irrigation water. We believe it appropriate that the landowner take a positive action to bring the land into compliance with the law. One course offered to the landowner by this provision is to elect to come under the discretionary provisions within a reasonable time. If the landowner chooses not to take advantage of this opportunity, the land will not be eligible to receive irrigation water unless it is sold to an eligible landowner in a sale approved by the Secretary.

Comment 2: Three persons stated that the land ineligible under prior law should not be made eligible through the procedure provided by this rule.

Response: We believe that for the sake of district and farm efficiency, it is appropriate that a one-time opportunity be provided to bring such ineligible land into eligible status.

43 CFR 426.11(d) Excess land not under recordable contract

Comment 1: One person indicated that landowners, who through ignorance purchase land into excess status, should not be faced with a loss because of their actions, but instead, should be permitted to farm the land until they can dispose of it.

Response: To permit such actions would be contrary to law. Further, through the annual certification and reporting process, it will be difficult for any landowner to acquire excess land into ineligible status and not be aware that he or she is doing so.

Comment 2: One person suggested the standards for price approval should be stated in this section of the rules.

Response: The basis for price approval is the appraisal of the land without reference to the construction of the project facilities. The criteria for appraisals is in § 426.12.

43 CFR 426.11(e) Recordable contracts

Comment 1: Two persons suggested a change in the format of this section. One suggested the rule be included under § 426.11(b), and the other suggested the title of the section be changed to "Disposition of land under recordable contract."

Response: Neither of these comments was accommodated. It is appropriate that recordable contracts be given separate treatment since they are separate and distinct actions. The title was not changed because it is descriptive of the procedure available to a landowner to make excess land eligible for irrigation water.

Comment 2: One person stated that changing the recordable contract term from 10 years to 5 years was violating section 203(d) of the RRA.

Response: The provision for 5-year recordable contracts applies to recordable contracts executed after October 12, 1982; it does not change the terms of existing recordable contracts. The provision for 5-year recordable contracts is in section 205(c) of the RRA.

Comment 3: One person stated that the RRA only provides that the excess land be disposed of within a reasonable time as determined by the Secretary, not at a price approved by the Secretary.

Response: Section 209(a) of the RRA states that excess land shall be placed under recordable contract "in accordance with terms and conditions required by Federal Reclamation law." Section 46 of the Omnibus Adjustment Act of 1926 provides for "recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior."

Comment 4: One person stated that the provision in the rules which permits water deliveries to begin on the day the Secretary receives a request to execute a recordable contract and provides for a 20-day grace period is not in accord with section 209 of the RRA.

Response: The provision for the 20-day grace period is within the Secretary's discretion and has been provided to make this provision of law administratively workable.

Comment 5: Two persons objected to the provision in this rule which states that land under recordable contract will be subject to the full-cost provisions of law if leased to another whose landholding exceeds the specified limitations of law. They maintain this will discourage landowners from placing their land under recordable contract.

Response: Section 205(c) of the RRA provides that land under recordable contract is eligible to receive water at

less than full cost for the disposition period provided in the recordable contract; it does not say that the land must receive water at that rate. There are other provisions of the RRA, particularly section 205(a), which declare that irrigation water delivered to landholdings in excess of the designated limitations must be at full cost. It is apparent Congress intended that there be an absolute limitation on the irrigation water deliveries to leased land at the contract rate. This rule reflects that intent. The only instance where the rule would be a deterrent to a landowner placing land under recordable contract would be in those cases where the landowner intends to lease the land to a farm operator who owns or leases more than the acreage entitlement under law.

43 CFR 426.11(f) Restriction on placing excess land under recordable contract

Comment 1: One person suggested that the rules should permit a landowner who acquires land into excess status to place such excess land under recordable contract.

Response: This suggestion was not accommodated because it is contrary to Reclamation law. To permit the acquisition of land into excess status and then to allow the owner to place that excess land under recordable contract and receive irrigation water for it at the contract rate for 5 years is contrary to the purpose of the law. It would provide an opportunity for individuals to obtain benefits from the Federal investment in the Reclamation project that were not intended.

Comment 2: One person suggested the rules should make it clear that no deliveries of irrigation water will be permitted to land acquired into excess status.

Response: The rule has been revised to clearly indicate that a person who, after October 12, 1982, acquires land into excess status, shall lose eligibility to receive irrigation water for that land, provided that, at the time of purchase, irrigation water was available to that land.

43 CFR 426.11(h) Deed covenant

Comment 1: One suggestion was made that the deed covenant language be revised to reflect that the covenant imposes a restriction on the delivery of irrigation water to the land if sold without Secretarial approval rather than prohibiting the sale of the land.

Response: The rule has been revised to accommodate this suggestion.

Comment 2: One person suggested that the deed covenant language be amended to permit a person who purchases excess land at fair market value to sell that land at its irrigated fair market value.

Response: When land is required into excess status, it becomes subject to the provisions of law dealing with excess land, one of which requires the deed covenant. As stated in § 426.11(k), the only excess land exempt from the deed covenant is land which becomes excess because of the westwide application of the acreage limitation provisions of law or land which becomes excess because of restrictions on delivery of water to nonresident aliens.

Comment 3: One person suggested that the rules address the status of covenants that were placed in deeds transferring excess land between May 18, 1979, and October 12, 1982. Those covenants required control of the sale price of the land until one-half of the construction charges allocated to that land had been paid.

Response: This suggestion has not been accommodated because there are relatively few such deeds in existence and the problem can be addressed through an administrative action by the Bureau of Reclamation. The holders of such deeds will be notified that the covenant will be waived by the Secretary 10 years after the sale of the land was made.

43 CFR 426.11(i) Extension of disposition periods for recordable contracts

Comment 1: Two persons suggested that the time allowed for sale of excess land under extended recordable contract in the Westlands Water District should be the greater of the time remaining on the recordable contract as of August 3, 1976, or 6 months.

Response: The law specifically states that the period of time for the disposal of land under extended recordable contract shall be equal to the time remaining on the recordable contract when the Secretary withheld approval of the sales of excess land. These provisions in the rules have been expanded, however, to recognize there may be some time differential between the date the court order is lifted and the date the Secretary resumes processing the sale of the excess land. The Secretary will notify the affected landowners of the date the processing of the sale will resume.

Comment 2: Six persons commented on the provisions in the rules dealing with water rates for land under extended recordable contract. These persons, in effect, claim that the provision in the RRA which states that irrigation water can be provided at the contract rate for no more than 18 months of an extended recordable contract period applies only to landholdings subject to the discretionary provisions of title II.

Response: The rules have been revised to reflect that the 18-month provision will apply only to extended recordable contracts held by owners subject to the discretionary provisions of title II. Owners who do not amend will be eligible to receive irrigation water at the contract rate for the entire length of their extended contract.

43 CFR 426.11(j) Sale of excess land under recordable contract by the Secretary

Comment 1: One person suggested an additional sentence be included in this rule stating that sale shall be considered made if the landowner complies with all requirements for the sale regardless of whether or not final approval of the sale has been given by the Secretary.

Response: A provision has been included in the rules to reflect this suggestion.

Comment 2: Four persons suggested that the order of the distribution of the proceeds from the sale of excess land by the Secretary be revised to provide that the landowner receives his or her payment first.

Response: This change was made, but the effect of the revision to this section should not have a noticeable impact on the proceeds to any of the parties involved in the sale.

Comment 3: One person suggested the distribution of the remainder of the proceeds should be to the Reclamation fund "or other fund as provided by law."

Response: This change has been made in that it more accurately reflects the procedure that must be followed.

Comment 4: One participant stated that the United States should be more equitable in sharing the proceeds from the sale of excess land and that sales should not be a burden to the districts.

Response: The sale of this land will not change the district's repayment obligation nor other obligations in any way. The proceeds from the sale shall be distributed as indicated in the rule.

Comment 5: One person could not see any reason for the provision in the rules dealing with the closing of sales.

Response: This provision is necessary to indicate that in sales by the Secretary there will be no requirement for a covenant restricting the resale of the land because the excess land will be sold to the highest bidder, presumably at market price.

43 CFR 426.11(k) Land which becomes excess because of westwide

application or enforcement of other requirements of law

Comment 1: One person requested clarification as to how the section would apply to land acquired after October 12, 1982.

Response: Land that is acquired into excess status after October 12, 1982, based on the westwide application of acreage limitation or the citizenship or alien residency requirement, will not be eligible to receive irrigation water and will not be eligible to be placed under recordable contract. Other provisions of the rules reflect this application.

Comment 2: One person stated this rule, as it applies to nonresident aliens, is not consistent with the RRA.

Response: We disagree; a careful reading of the act indicates the rule is entirely consistent with the law.

43 CFR 426.12 Excess land appraisals

43 CFR 426.12(a) In general

Comment 1: Two persons suggested that the appraisal provisions contained in the rules should not apply to existing contracts if those provisions are in conflict with the provisions in existing contracts.

Response: These comments have been accommodated by including in this section of the rules the provision that the rules will apply except when the excess land is subject to a contract or recordable contract in force on October 12, 1982, and the provisions in that contract are inconsistent with the rules.

Comment 2: There were two persons who challenged the provision in the proposed rules which states the excess land will be appraised "without reference to the construction of the irrigation works."

Response: The basis for appraising excess land is set forth in the law and the rules reflect the requirements of the law.

Comment 3: There were four persons who suggested that the appraiser should be able to exercise independent judgment in determining the value of the land, taking into account the nonproject water supply. In their opinion, the appraiser's expert judgment should not be inhibited by the rules.

Response: The rule dealing with nonproject water supplies has been rewritten to more accurately identify the role of the appraiser in considering nonproject water supplies. Nonproject water supply data will be provided to the appraiser by the Bureau of Reclamation and the district. The landowner and the district also can provide data to the Bureau for use in establishing the trend information on nonproject water supplies. The appraiser will determine the value of the land, taking into account this information. The appraisal will then be subject to the review process provided in the rules.

43 CFR 426.12(c) Appraiser selection and appraisal cost

Comment: Two persons indicated that the selection of the appraiser by the Secretary of the Interior does not always lead to the selection of a qualified appraiser and that more flexibility should be provided in the rules in selecting an appraiser.

Response: This suggestion has not been accommodated. The United States is required to pay for the first appraisal, and the Bureau of Reclamation, which has the responsibility for conducting the appraisal, either uses its staff appraisers who are familiar with excess land appraisal procedures or arranges for a contract appraiser who is knowledgeable about such procedures. The landowner, under the rules, can request a reappraisal by a three-person board of appraisers if he or she is not satisfied with the first appraisal. If the difference in the appraised value is 10 percent or more, the United States will pay for the cost of the reappraisal.

43 CFR 426.13 Exemptions

43 CFR 426.13(a) In general

Comment: Five persons questioned the accuracy of this section, particularly as it refers to Corps of Engineers projects, in that the proposed rule only indicates an exemption from the ownership and pricing provisions of Reclamation law while the RRA exempts such projects from all provisions of the Reclamation law. One comment questioned the reference to isolated tracts in this provision and the application of the full-cost provisions to such tracts.

Response: This section has been rewritten so that it is only an introductory section. The application of the exemption rules is covered more specifically in the added subsections.

43 CFR 426.13(a)(1) Corps of Engineers projects

Comment: Five people pointed out that the proposed rule dealing with Corps of Engineers project did not repeat the exact language contained in the RRA.

Response: The proposed rule was intended to apply the provisions of the RRA dealing with Corps of Engineers projects in the exact manner as Congress intended, even though the precise language of the act was not repeated in the rules. In order to accommodate the concerns expressed about this provision, however, the rule has been expanded to include the phraseology from the RRA whenever it was necessary or appropriate to do so.

43 CFR 426.13(a)(2) Reclamation projects

Comment 1: One person requested that this section of the rules be changed to indicate that the repayment of the original construction charges was all that was required to become exempt.

Response: The provisions in the rules track the provisions of the RRA dealing with the repayment of construction obligations by a district. The law does not use the term "original" in identifying construction charges and neither do the rules. This provision would not require the repayment of a loan obtained for R&B purposes. Such loans are not considered construction obligations.

Comment 2: One person asked whether an individual can prepay his or her construction charges, and by so doing, become exempt.

Response: The law is clear on this question. Individual prepayment is permitted ony if authorized in the district's contract. If individual payment is permitted by the contract, payment must be for all of the landholding in order for the land to become exempt.

Comment 3: Three persons expressed concern that the rules do not indicate which provisions of Reclamation law the districts will be exempt from upon payout of their construction charges. One asked if they would be exempt from the certification and reporting requirements.

Response: The rules indicate a district which has paid its construction obligation will be exempt from the acreage limitation and full-cost pricing provisions of Reclamation law. The rules have been expanded to show that they will also be exempt from the certification and reporting requirements. These are the only provisions of law from which they will be exempt.

Comment 4: Two persons stated that the rules should make it clear that district exemption from the acreage limitation provisions of law does not exempt that district from making its annual payment of O&M charges to the United States.

Response: This statement is correct, and the rules have been revised to so reflect it.

Comment 5: One person suggested that the rules should state that specific blocks in a district should be exempt when they have repaid their construction charge even though other blocks in the district may not have completed their repayment.

Response: If a district's repayment contract establishes the repayment obligation of the district on a block

basis, the payout provisions of the RRA should be determined on that basis. This section of the rules has been revised to permit such action.

Comment 6: Three persons stated that districts should be permitted to pay off their original contract obligation at any time they want without any restrictions, and that new contracts should allow for accelerated payments.

Response: The section dealing with the payout of construction charge obligations is in accord with the law. The RRA specifically states that lump-sum or accelerated payoffs of construction costs are not permitted unless provided in an existing contract.

Comment 7: One person stated that it would be more efficient to issue the certificate of payout to districts rather than to individuals.

Response: The law provides that individuals within the district can request such a certificate; there is no provision in the law for a certificate to be issued to a district; therefore, the rules have not made such provision. However, the district will be officially notified of its exemption upon payout.

43 CFR 426.13(a)(3) Temporary supplies of water

Comment: Twenty-six people commented on the temporary water supply exemption. They are particularly interested in the effect of this rule on existing short-term contracts and procedures.

Response: The matter of temporary water supplies was thoroughly considered in revising the rules. The revisions reflect the provisions of law and the policies that are to be implemented for temporary water supplies. Contracts for temporary water supplies for 1 year or less will not be considered an additonal or supplemental benefit requiring amendment to a district's contract to conform to the discretionary provisions of law. These revisions accommodate a number but not all of the comments that were received on temporary water supplies. The matter of temporary water supplies is further addressed in the response to comments on § 426.5(a)(3).

43 CFR 426.13(a)(4) Isolated tracts

Comment: Three persons objected to charging full costs for irrigation water delivered to isolated tracts.

Response: There is no provision in law that would permit an exemption of such land from the full-cost provisions if the full-cost provisions are otherwise applicable to that land; therefore, these comments have not been accommodated.

43 CFR 426.13(a)(5) Rehabilitation and betterment programs

Comment: Five persons suggested that a provision should be incorporated in the exemption section of the rules that would acknowledge that R&B programs are not the basis for imposing acreage limitation.

Response: A new section has been added to the rules to reflect the treatment of R&B loans. This provision is in accord with the intent of Congress as set forth in the committee reports on the RRA.

43 CFR 426.14 Residency

Comment: There were three comments on the residency provision of the proposed rules. Two people suggested the section be deleted entirely and one suggested the second sentence of the section in the proposed rules be deleted because it is surplus language.

Response: Section 211 of the RRA specifically provides that residency shall not be a requirement for water delivery on Reclamation projects. The rules are directed to implementing the RRA; therefore, it is appropriate that this provision is included in the rules. The second sentence that was included in the proposed rules has been deleted as suggested.

43 CFR 426.15 Religious and charitable organizations

Comment: Five persons adressed the provisions of the rules dealing with religious and charitable organizations. One endorsed the rules as they were written, three persons questioned the application of the provisions, and one person indicated that the law was unfair in the treatment of religious and charitable organizations when compared to the treatment of individuals.

Response: Thr rules and regulations dealing with religious and charitable organizations are patterned after the provisions in the RRA. They do not expand on the benefits provided to such organizations by the RRA, but merely establish the principles and criteria by which the provisions of the act will be implemented.

43 CFR 426.16 Involuntary acquisition of land

Comment: Two people pointed out that the proposed rules failed to address the manner in which mortgaged land acquired from nonexcess into excess status through involuntary foreclosure is to be treated, even though the RRA specifically addresses this issue.

Response: This oversight in the proposed rules has been corrected and section 426.16(c) has been added to the rules. It restates the provisions of the RRA that apply to mortgaged land acquired involuntarily.

43 CFR 426.17 Land held by governmental agencies

Comment: Two persons suggested that the rules should not place any restriction on the leasing of land owned by States or political subdivisions. Two people requested that additional examples be inserted in this section. One person suggested the rules be expanded to cover State-owned land which can be placed under recordable contracts, and one person asked if a State is considered to be a qualified recipient.

Response: The RRA removes the provision in the 1970 act which requires land leased from State or political subdivisions to eventually be placed under recordable contract if it is to continue to receive water. All other provisions of the 1970 act continue in effect. The 1970 act provides that States or political subdivisions may lease land in no greater parcels than can be owned by an individual subject to Reclamation law. This provision has consistently been interpreted to mean that a State or political subdivision cannot lease land to an individual if that individual's landholding exceeds the acreage limitations imposed by Reclamation law. The rules and regulations continue to reflect this requirement of law. Examples have not been included in this section of the rules because the rules adequately identify the situations where acreage limitation will not apply to State-owned lands without further elaboration. With regard to the request to include a provision in the rules on recordable contracts and a State's right to enter into such contracts, we believe the provisions located elsewhere in the rules dealing with excess lands and recordable contracts, will apply to State land if the State chooses to operate its land for profitmaking purposes. The Solicitor of the Department of the Interior has determined that a State is to be considered a qualified recipient if the discretionary provisions of the RRA apply to the land held by the State.

43 CFR 426.18 Commingling

Comment 1: There were seven comments and questions from individuals regarding the commingling of project (irrigation) water and nonproject (other agricultural) water. Several of these people suggested that the rules should state that acreage limitation does not apply to land served with the nonproject water supply.

Response: Historically, the commingling of project and nonproject

water has been handled in the following manner. If project and nonproject water are commingled and delivered in *non-Federally* financed facilities, acreage limitation provisions of Reclamation law apply only to lands receiving that portion of the commingled water considered project water. If project water and nonproject water are delivered through *Federally* financed facilities, the acreage limitation provisions of Reclamation law will apply to all land receiving water from the commingled supply. The rules have been modified to reflect the continued application of this commingling principle. The application of acreage limitation and Reclamation law to commingled water is, in effect, based on a determination of whether the recipients of the delivery of the project and nonproject water are benefited by the investment of Federal funds in facilities for the delivery of such water. If such benefits exist, the provisions of Reclamation law must apply. Congress, in effect, recognized this principle when it included section 225 in the RRA which validates commingling provisions in existing contracts, all of which are based on the principle stated above. The rules were expanded also to cover exchange water situations, but the rules do not establish commingling provisions for all districts which contract with the United States for Reclamation projects. They only restate the provisions of the RRA with regard to existing contracts and provide the basis for contract negotiations for commingling provisions in future contracts.

Comment 2: There were two persons who expressed concern about the application of this rule to the ground-water deliveries in the CAP.

Response: The commingling criteria set forth in the rule apply to all project and nonproject water deliveries whether from surface or ground-water sources.

43 CFR 426.19 Water Conservation

43 CFR 426.19(a) In general

Comment 1: Three persons stated that the water conservation provisions in the proposed rules were too vague and would be viewed with distrust by the districts. They felt the rules needed to be more detailed and specific.

Response: The water conservation provisions of these rules are required by section 210 of the RRA. They are general by intent since it is the districts which will develop and carry out the water conservation programs. However, the rule does emphasize that the Secretary of the Interior will encourage water conservation initiatives by districts, recognizing that the responsibility for these efforts is primarily that of the districts, not that of the Federal Government. This is in accord with the intent expressed by Congress in the water conservation provision in the RRA.

Comment 2: One person inquired as to the legal basis for the provision in the rules requiring the development of a water conservation plan.

Response: Section 210(b) of the RRA requires such a plan.

Comment 3: Five comments were received that were critical of the water conservation provisions in the rules because they indicated a lack of initiative and interest on the part of the Bureau of Reclamation to require the establishment and implementation of effective water conservation plans by districts.

Response: The rules were drafted to reflect the intent of Congress that districts develop and implement water conservation plans. The Bureau of Reclamation will provide technical assistance an guidance necessary to carry out this provision of the rules.

43 CFR 426.19(b) Development of a plan

Comment 1: Two persons commented on this provision of the rules as it relates to existing planning efforts. One person stated that the rules were incorrect in presuming that existing plans are not meaningful, and a second indicated a concern that the guidelines the Bureau of Reclamation develops will become requirements for districts.

Response: The Bureau's involvement in the planning effort for water conservation is to assure that each district which has a contract with the United States also has a water conservation plan. The Bureau of Reclamation will assist districts in developing those plans and will identify actions that are appropriate to the plan. The rules do not indicate that the Bureau of Reclamation will dictate the provisions of water conservation plans, nor does the Bureau of Reclamation intend to impose requirements of this nature on districts.

Comment 2: Four persons indicated that the requirements expressed in the rules for water conservation plans were inadequate because they do not indicate what should be included in the plan nor do they explain how the Bureau of Reclamation would assist the districts in developing their plans. They also felt the rules should identify plan objectives, place time limitations on the development of a plan, provide for public participation in the planning effort, and establish a mechanism for periodic review.

Response: We believe the broad provision for water conservation planning efforts by districts, as expressed in the rules, is preferable to attempting to provide comprehensive criteria for these efforts. The districts will be required to develop the plan and will have the primary responsibility for its implementation. The resources that will be devoted to this effort will vary greatly depending upon district need and economic capability. The water conservation guidelines which are being developed by the Bureau of Reclamation will identify the objectives and goals that should be considered in the planning effort, as well as the review procedure a district may wish to incorporate into its plan.

43 CFR 426.19(c) Federal assistance

Comment: Two persons indicated the provision was inadequate because it failed to specify interagency agreements and the type of assistance that will be provided to districts.

Response: The Bureau of reclamation's cooperation in the water conservation planning effort will be provided to all districts, to the extent possible, based on the resources it has available for this function. This effort will continue to involve the cooperative programs of other Federal and non-Federal agencies. The guidelines that will be available to districts will be designed to identify sources of assistance.

43 CFR 426.20 Public participation

Comment: Five persons commented on the public participation provisions in the proposed rules. Two suggested the rules be tightened to assure the public will have ample opportunity to participate in all contract negotiation sessions, and three stated that the rules should be changed so as to limit public participation in contract negotiation sessions to a certain extent.

Response: The final rules were modified slightly to establish more precisely the procedure the Bureau will use in making announcements of contract negotiating sessions. A subsection was added to the rules to permit the Regional Director of the applicable Bureau of Reclamation region to determine when a contract change is considered significant enough to require a new public participation proceeding.

43 CFR 426.21 Small reclamation projects

Comment: Forty-nine people were concerned with this section of the proposed rules. Nineteen persons stated that the rules imply that Small Reclamation projects are governed by

general Reclamation law rather than a specific statute. Seven persons stated the provision applying acreage limitation to Small Reclamation projects prospectively was not clear, and 23 persons stated that the amendment to the SRPA made by section 223 of the RRA was intended to permit existing Small Reclamation contractors to amend their contracts to take advantage of the new interest threshold.

Response: The provision in the proposed rules that would have restricted section 223 of the RRA to prospective application was based on the language in the conference report of the act. The report indicated that it was the intent of Congress that this section be applied prospectively. Section 223 of the RRA, however, does not impose any applicability restrictions on Small Reclamation projects contractors. The rules, therefore, have been revised to conform more accurately to the provision of the act itself, permitting Small Reclamation project contractors to amend their contracts to conform to the provisions of section 223 of the RRA. A provision also has been included in the rules which provides that only section 426.21 of the rules applies to Small Reclamation projects.

43 CFR 426.22 Decisions and appeals

Comment: Three people commented on this provision of the rules. One suggested that the landowner should be able to participate in the decisionmaking process, and two others suggested that all of the decisions be made by the Secretary.

Response: This rule reflects the procedures that would normally be followed in appealing decisions initially made by a Regional Director regarding the rules and regulations. This rule has not been changed to accommodate these comments.

43 CFR 426.22 Severability

Comment: Numerous people suggested that a severability section similar to that contained in the RRA be included in the rules.

Response: This comment has been accommodated.

List of Subjects in 43 CFR Part 426

Reclamation, Irrigation, Reporting and recordkeeping requirements.

Dated: November 30, 1983.

William Clark,

Secretary.

Title 43 of the Code of Federal Regulations is amended as follows:

Part 426 is added to read as follows:

PART 426—RULES AND REGULATIONS FOR PROJECTS GOVERNED BY FEDERAL RECLAMATION LAW

Sec.

426.1 Objectives.
426.2 Applicability.
426.3 Authority.
426.4 Definitions.
426.5 Contracts.
426.6 Ownership entitlement.
426.7 Leasing and full-cost pricing.
426.8 Operation and maintenance charges.
426.9 Class 1 equivalency.
426.10 Certification and reporting requirements.
426.11 Excess land.
426.12 Excess land appraisals.
426.13 Exemptions.
426.14 Residency.
426.15 Religious and charitable organizations.
426.16 Involuntary acquisition of land.
426.17 Land held by governmental agencies.
426.18 Commingling.
426.19 Water conservation.
426.20 Public participation.
426.21 Small reclamation projects.
426.22 Decisions and appeals.
426.23 Severability.

Authority: Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552; the Reclamation Reform Act of 1982, Pub. L. 97–293, title II, 96 Stat. 1263; and the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388 (43 U.S.C. 371 et seq.).

§ 426.1 Objectives.

Reclamation law establishing terms and conditions pursuant to which project water may be supplied is designed:

(a) To provide viable farm opportunities on land receiving Reclamation project water.

(b) To distribute widely the benefits from the Reclamation program.

(c) To preclude the accrual of speculative gain in the disposition of excess land.

(d) To require reimbursement to the Federal Government of the full cost of providing irrigation water to landholdings which exceed established limits.

§ 426.2 Applicability.

(a) These regulations shall become effective 30 days following publication in the **Federal Register** as final rulemaking.

(b) These regulations apply to all irrigation land subject to the acreage limitation and/or full-cost provisions of Reclamation law. (Included are excess lands, whether under recordable contract or not, and nonexcess land.)

(c) Sections 426.5 through 426.12 of these regulations apply variously to all districts subject to the acreage limitation and full-cost provisions of Reclamation law. The way in which they apply depends upon whether the district has: (1) A contract which was in force on October 12, 1982, (2) a contract which was amended after October 12, 1982, or (3) a contract which was entered into after October 12, 1982. Application of these sections will also vary depending upon whether an individual or entity subject to Reclamation law has made an irrevocable election to conform to the discretionary provisions of the Reclamation Reform Act of 1982.

(d) The remainder of these rules, §§ 426.13 through 426.22, may not apply to all districts, but if they do apply, they apply equally.

(e) In many cases, hypothetical examples illustrating the application of a specific rule have been provided. This approach is in direct response to the public's expressed need. The examples provided should not be construed, however, as being exclusive interpretations of a rule. They are provided only as an interpretative tool.

§ 426.3 Authority.

These rules and regulations are written under the authority vested in the Secretary by the Congress in the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552; the Reclamation Reform Act of 1982, Pub. L. 97–293, 96 Stat. 1263; and the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388 (43 U.S.C. 371, et seq.).

§ 426.4 Definitions.

As used in these rules:

(a) The term "arable land" means land which, when farmed in adequate size units for the prevailing climatic and economic setting and provided with essential onfarm improvements, will generate sufficient income under irrigation to pay farm production expenses; provide a return to the farm operation labor, management, and capital; and at least pay the operation, maintenance, and replacement costs of related project irrigation and drainage facilities.

(b) The term "contract" means any repayment or water service contract between the United States and a district providing for the payment of construction charges to the United States including normal operation, maintenance, and replacement costs pursuant to Federal Reclamation law. All water service and repayment contracts are considered contracts even if the contract does not specifically identify that portion of the payment which is to be attributed to operation and maintenance and that which is to be attributed to construction.

(c) The term "contract rate" means the repayment or water service rate that is set forth in a contract that is to be paid by a district to the United States.

(d) The term "dependent" means any natural person within the meaning of the term dependent in the Internal Revenue Code of 1954 (25 U.S.C. 152) as well as the regulations issued thereunder, as both read on October 12, 1982.

(e) The term "discretionary provisions of title II" refers to sections 203–208 of Pub. L. 97–293.

(f) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water. This definition includes entities which contract for construction or improvement of water storage and/or delivery facilities.

(g) The term "excess land" means irrigation land, other than exempt land, owned by any landowner in excess of the maximum ownership limitation under the applicable provision of Reclamation law.

(h) The term "exempt land" means irrigation land in a district to which the acreage limitation and pricing provisions of Reclamation law do not apply.

(i) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal Reclamation law or applicable contract provisions, with interest on both accruing from October 12, 1982, on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to October 12, 1982. Operation, maintenance, and replacement charges required under Federal Reclamation law shall be collected in addition to the full-cost payment.

(j) The term "individual" means any natural person, including his or her spouse, and including other dependents as defined and interpreted in the Internal Revenue Code of 1954 (26 U.S.C. 152), as well as the regulations issued thereunder as both read on October 12, 1982; *Provided*, That, with respect to the ownership limitations established by prior law, the term individual does not include his or her spouse or dependents.

(k) The term "irrevocable election" means the legal instrument which landowner or lessee uses to make his or her owned and/or leased irrigation land subject to the discretionary provisions of title II. The election is binding on the elector and the irrigation land in his or her holding, but will not be binding on a subsequent landholder of that land.

(l) The term "irrigable land" means arable land under a specific project plan for which a water supply is or can be provided, and which may be provided with or is planned to be provided with irrigation, drainage, flood protection, and other facilities necessary for sustained irrigation. For the purpose of determining the areas to which acreage limitations are applicable, it is that acreage possessing permanent irrigated crop production potential, after excluding areas occupied by and currently used for homesites, farmstead buildings, and corollary permanent structures such as feedlots, equipment storage yards, and similar facilities, together with roads open for unrestricted use by the public. Areas used for field roads, farm ditches and drains, tailwater ponds, temporary equipment storage, and other improvements subject to change at will by the landowner, are included in the irrigable acreage.

(m) The term "irrigation land" means all irrigable land and/or other land receiving irrigation water.

(n) The term "irrigation water" means water made available for agricultural purposes from the operation of Reclamation project facilities pursuant to a contract with the Secretary.

(o) The term "landholder" means a qualified or limited recipient or a party under prior law who owns and/or leases land subject to the acreage limitation and pricing provisions of Federal Reclamation law.

(p) The term "landholding" means total acreage of one or more tracts of land situated in one or more districts owned and/or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary. In determining the extent of a landholding, the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that qualified or limited recipient in proportion to that landholding, provided, however, that such attribution shall not be required with respect to any landowner's or lessee's interest of 4 percent or less in a limited recipiency.

(q) The term "legal entity" means any business or property ownership arrangement established under State or Federal law, including, but not limited to, corporations, partnerships, associations, joint tenancies, and tenancies-in-common.

(r) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than 25 natural persons.

(s) The term "nondiscretionary provisions of title II" refers to sections 209–230 of Pub. L. 97–293. These provisions of the law are of general application and became effective immediately upon enactment. These provisions apply to all individuals and districts regardless of whether they are subject to the discretionary provisions of title II.

(t) The term "prior law" means the Act of June 17, 1902, and acts supplementary thereto and amendatory thereof (32 Stat. 388) which were in effect prior to the enactment of the Reclamation Reform Act of 1982, Pub. L. 97–293 (96 Stat. 1263) as that law is amended or supplemented by the Reclamation Reform Act of 1982 (Pub. L. 97–293).

(u) The term "project" means any Reclamation or irrigation project, including incidental features thereof, authorized by Federal Reclamation law, or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands.

(v) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits 25 natural persons or less.

(w) The term "Reclamation fund" means a special fund established by the Congress under the Reclamation Act of June 17, 1902, as amended, for the receipts from the sale of public lands and timber, proceeds from the Mineral Leasing Act, and certain other revenues. The Congress makes appropriations from this fund for the investigation, construction, operation, and administration of Bureau of Reclamation projects. Collections from water users for reimbursable costs of these projects are returned to the fund unless Congress has specified otherwise for specific projects.

(x) The term "recordable contract" means a written contract between the Secretary and a landowner capable of being recorded under State law, providing for the sale or disposition of land held in excess of the ownership limitations of Federal Reclamation law.

(y) The term "resident alien" means any natural person within the meaning

of the term as defined in the Act of June 27, 1952 (66 Stat. 163).

(z) The term "Secretary" means the Secretary of the Interior or his designee.

(aa) The term "title II" refers to sections 201–230 of Public Law 97–293, without differentiation between the discretionary and nondiscretionary provisions of that law.

(bb) The terms "westwide" or "Reclamation wide" mean the 17 Western States in which Reclamation projects are located, namely: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

§ 426.5 Contracts.

(a) *In general.* Title II of Pub. L. 97–293 will be applied to repayment and water service contracts (hereafter contracts) by the following rules:

(1) *Contracts in force on October 12, 1982.* Contracts in force on October 12, 1982, shall continue in effect unless amended to conform to the discretionary provisions of title II. In these rules, individuals or entities subject to the provisions of contracts in existence on October 12, 1982, are termed "parties subject to the 160-acre ownership limitations established by prior law."

(2) *New contracts.* Contracts executed after October 12, 1982, shall be subject to all provisions of title II. Districts which have an existing contract(s) with the United States but enter into a new contract after October 12, 1982, shall be subject to all provisions of title II, except as provided in section 426.13(a)(3). The execution date of the new contract determines the date upon which the discretionary provisions apply to the contract. In these rules, individuals and entities subject to the provisions of new contracts are termed either "qualified recipients" or "limited recipients."

(3) *Amended contracts.* (i) Contracts amended for conformance to Pub. L. 97–293. Contracts which are amended at the request of the district to conform with the discretionary provisions of title II need be amended only to the extent required for conformance with that title. A district shall be subject to the discretionary provisions from the date the district's request is submitted to the Secretary. The district's request to the Secretary must be accompanied by a duly adopted resolution dated and signed by the governing board of the district obligating the district to take, in a timely manner, the action required by applicable State law to amend its contract. In these rules individuals and entities subject to the provisions of these contracts are termed either "qualified recipients" or "limited recipients."

(ii) Contracts amended to provide additional or supplemental benefits. All contracts which are amended after October 12, 1982, to provide a district supplemental or additional benefits, shall be amended at the same time to conform to the discretionary provisions of title II. The date that the contract amendment is executed by the Secretary will establish the date for determining the application of the discretionary provisions. All contract actions will be construed as providing supplemental or additional benefits except those actions which do not require the United States to expend significant funds, to commit to significant additional water supplies, or to substantially modify contract payments due the United States. More specifically, the following shall not be considered to provide additional or supplemental benefits: (A) the construction of those facilities for conveyance of irrigation water that were contracted for by the district on or before October 12, 1982; (B) minor drainage and construction work contracted for under a preexisting repayment or water service contract; (C) O&M (operation and maintenance) payments, excluding Rehabilitation and Betterment loan payments; (D) the deferral of payments, provided the deferral is for a period of 12 months or less; (E) a temporary supply of irrigation water as set forth in section 426.13(a)(3); (F) the transfer of water on an annual basis from one district to another, provided that the rate paid to the United States therefor is the higher of the applicable water rate for either district, and further provided that the existing contract allows for such transfers; and (G) additional contract actions which the Secretary determines do not provide additional or supplemental benefits.

In these rules, individuals and entities subject to the provisions of these contracts are termed either "qualified recipients" or "limited recipients."

(b) *Standard article for contract amendements.* New contracts executed after October 12, 1982, or contracts which are amended to conform to the discretionary provisions of title II shall contain the following provision:

"The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this contract is subject to Reclamation law, as amended and supplemented, including but not limited to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

(c) *Master contract-subcontract arrangements.* In cases where contractual arrangements involve several districts and the United States in a master contract-subdistrict contract type of arrangement, an amendment to a subdistrict contract to conform to the discretionary provisions of title II will not affect the terms of the master contract or other subdistrict contracts in the contractual arrangement nor will it impose any of the requirements of the discretionary provisions of title II on other contracting entities in that arrangement.

(1) The application of this rule may be illustrated by the following:

Example (1). District A, along with six other irrigation districts, is a member of a water conservancy district which has entered into a master contract with the United States. District A also has a subcontract with the conservancy district to which the United States is a party. Given the foregoing conditions, District A may amend its subcontract to conform to the discretionary provisions of title II without making it necessary for the conservancy district or other subcontracting entities within the conservancy district to so amend.

Example (2). The Riverside Water Conservancy District has a contract with the United States for the delivery of irrigation water. The district also has contracts with six subcontracting entities for the delivery of irrigation water. However, the United States is not a party to these subcontracts. Given these circumstances, only the conservancy district has the authority to amend its contract to conform to the discretionary provisions of title II. If it so amends, all the subcontracting entities automatically become subject to the discretionary provisions of title II.

(d) Individual elections to conform to the discretionary provisions of title II.

(1) *Individual election.* Landowners or lessees may elect to be subject to the discretionary provisions of title II even if the district does not amend its contract. The individual election is effected by executing an irrevocable election in a form provided by the Secretary. The landholder exercising the election shall be considered a qualified or limited recipient, as appropriate, and all irrigation land in the recipient's landholding shall be subject to the discretionary provisions of title II. The election shall be binding on the elector and the irrigation land in his or her holding but will not be binding on a subsequent landholder of the land.

(2) *Disposition of irrevocable election forms.* The recipient's irrevocable election form shall be filed with the Bureau of Reclamation and shall be accompanied by a completed certification form, the contents of which are discussed in § 426.10. The Bureau

shall forward the completed forms to each district in which the elector owns or leases land. Such forms shall be retained by the district(s).

(3) *District reliance on election information.* The district shall be entitled to rely on the information contained in the election form without being required to make an independent investigation of the information.

(e) *Time limits.*—(1) *District amendments.* There are not time limits on when a district may request its contract be amended to conform to the discretionary provisions of title II.

(2) *Individual elections.* There are also no time limits on when an individual landowner or lessee may make an irrevocable election.

(3) *Other provisions.* The provisions of prior law apply to districts and individuals until conformance with the discretionary provisions of title II is effected. Those provisions include westwide application of the 160-acre limitation to land acquired after December 6, 1979, as provided in § 426.6(d).

§ 426.6 Ownership entitlement.

(a) *In general.* Ownership entitlement is determined by whether the landowner is a "qualified recipient," "limited recipient," or "a party subject to the 160-acre ownership limitation established by prior law." All irrigation land shall be considered in the ownership computations except as stipulated in paragraphs (e) and (f) of this section.

(b) *Qualified recipient entitlement.* Except as provided in section 426.9 and 426.11, a qualified recipient is entitled to irrigate 960 acres or less of owned land with irrigation water. This entitlement applies on a westwide basis. All individual ownership and multiownership arrangements are qualified recipients provided they meet the following conditions:

(1) *Individual landowners.* All individual landowners are qualified recipients if they are citizens of the United States or resident aliens thereof and have met the contract requirements for a qualified recipient as set forth in § 426.5. As such, they are entitled to receive irrigation water for use on 960 acres or less of owned land on a westwide basis and owned land under recordable contract for the term of that contract term.

(i) The application of this rule may be illustrated by the following:

Example (1). Farmer X is a citizen of the United States and receives irrigation water on 160 acres owned in District A. District A amends its contract to conform to the discretionary provisions of title II. Farmer X automatically becomes a qualified recipient by virtue of the district decision and is entitled to receive irrigation water on 960 acres or less of irrigation land in his ownership.

Example (2). Farmer Y is a citizen of Germany, but has taken up permanent residency in the United States. Farmer Y owns 160 acres in District A and desires to purchase an additional 800 acres. District A has not amended its contract to conform to the discretionary provisions of title II. Farmer Y, however, decides to execute an irrevocable election. Farmer Y becomes eligible to receive irrigation water on 960 acres of land owned after the election. This eligiblity as a qualified recipient remains in force so long as Farmer Y, as a resident alien, maintains permanent residency in the United States. If Farmer Y were to become a United States citizen, his eligibility as a qualified recipient would, of course, remain in force.

Example (3). Farmer Z is a citizen and resident of Switzerland. Farmer Z owns 160 acres receiving irrigation water in District A. District A amends its contract to conform to the discretionary provisions of title II. Because Farmer Z, as an individual nonresident alien, cannot meet the requirements of either a qualified recipient or limited recipient and because he was receiving irrigation water prior to the district's contract amendment, Farmer Z may, as set forth in section 426.11(k), place the land under recordable contract and continue to receive irrigation water at the contract rate for 5 years. (If the land were not placed under recordable contract or had Farmer Z not been receiving irrigation water prior to the district's contract amendment, the 160 acres owned would be ineligible for service until such time as it was sold to an eligible buyer or Farmer Z took up permanent residency in the United States.)

(2) *Husband and wife.* A husband and wife, and any other dependents, are considered as one individual landowner. They are considered to be a qualified recipient and are entitled to irrigate 960 acres of owned land on a westwide basis with irrigation water, *Provided,* either husband or wife is a citizen of the United States or a resident alien thereof and the contract requirements as set forth in section 426.5 have been met.

(i) The application of this rule may be illustrated by the following:

Example (1). Farmer X and her husband are a qualified recipient by virtue of an irrevocable election. They own in joint tenancy 960 acres of land eligible for irrigation water. Their ownership entitlement has been satisfied and they are not eligible to receive irrigation water on any other land owned.

Example (2). Farmer Y and Farmer Z are a married couple, and each owns 480 acres of irrigated land under separate title in District A. District A has amended its contract to conform to the discretionary provisions of title II. Even though the land is held in separate title, Farmer Y and Farmer Z have reached the limits of eligibility to receive irrigation water as a qualified recipient.

(3) *Multiownership arrangement.* All multiownership legal entities are considered to be qualified recipients, provided that: the ownership is a legal entity established under State or Federal law, the entity does not benefit more than 25 natural persons, no member of the entity through this or in combination with any other ownership arrangement owns more than 960 eligible acres receiving irrigation water westwide, and the entity has met the contract requirments for a qualified recipient as set forth in section 426.5. As qualified recipients, they are eligible to receive irrigation water on 960 acres of land owned. The requirements of U.S. citizenship or U.S. residency for aliens do not apply to multiownership legal entities, provided the entity is established under State or Federal law and is authorized to own real property in the United States.

(i) The application of this rule may be illustrated by the following:

Example (1). XYZ Farms is a general partnership comprised of four individuals who own equal and separable interest in the 960-acre partnership. All other requirements as set forth in § 426.6(3) have also been met. Therefore XYZ Farms satisfies the requirements for a qualified recipient and may receive irrigation water for all 960 acres in its ownership. Moreover, the members of the partnership may also be qualified recipients outside their equal interest in XYZ Farms. If so, each may receive irrigation water on 720 acres or less in some ownership or ownerships other than XYZ Farms.

Example (2). Six brothers who are citizens and residents of Canada form a family corporation with each holding equal shares in the corporation. They are able to satisfy all other conditions set forth in § 426.6(3); therefore, the corporation is a qualified recipient and as such is entitled to receive irrigation water on 960 acres or less of owned land. Then, too, the brothers can be qualified recipients outside their interest in the corporation, and each brother may receive irrigation water on 800 acres or less owned in legal entities other than the family corporation, *Provided,* none of the brothers has an individual ownership. The brothers cannot meet the requirements of a qualified recipient under individual ownership § 426.6(b)(1) since none are citizens of the United States or resident aliens thereof.

(4) *Trusts.* An individual or corporate trustee holding land in a fiduciary capacity is not subject to the ownership or pricing limitations imposed by title II nor any other provisions of Federal Reclamation law. However, the interest of each beneficiary (qualified or limited recipient) in trust land in combination with other land he or she may own shall not exceed the ownership entitlement of title II unless the land is under recordable contract.

(i) The application of this rule may be illustrated by the following:

Example (1). Bank X is the trustee for five trusts, each of which has more than one beneficiary. The trusts contain 1,280, 960, 640, 800, and 400 acres, respectively. The land in the trusts is in districts which have amended their contracts to conform to the discretionary provisions of title II. Since the ownership and pricing limitations of title II do not apply to Bank X as trustee for the trusts, all 4,080 acres in the five trusts are eligible to receive irrigation water at the contract rate. However, if a beneficiary owned land or had other trust land which, when combined with his beneficial interest in the subject trust, caused him to exceed the 960-acre ownership limitation, that beneficiary would be required to designate the nonexcess land for which irrigation water could be supplied.

Example (2). Farmer X, a qualified recipient, establishes a testamentary trust by placing 640 acres of his land receiving irrigation water in a trust for his minor child upon his death. Farmer X designates his brother as trustee for the trust. The land is located in a district which has amended its contract to come under the discretionary provisions of title II. The brother, who is designated as trustee for the trust, owns 800 acres in the same district which receives an irrigation water supply. Farmer X dies, and the testamentary trust he has established is activated. The brother, as trustee, is entitled to receive irrigation water for the land in trust as well as the land he owns.

Note.—The land placed in the testamentary trust by Farmer X would be counted against his entitlement during his lifetime as long as the land remained in his ownership.

Example (3). Farmer X, a qualified recipient, owns 960 acres eligible to receive irrigation water. He decides to place 160 acres of this land in a living trust with his daughter as the life tenant. The 160 acres of trusted land shall be counted against the daughter's entitlement.

(c) *Limited recipient entitlement.* Except as provided in sections 426.9 and 426.11, a limited recipient is entitled to irrigate 640 acres of owned land with irrigation water. This entitlement applies on a westwide basis. All legal entities established under State or Federal law benefiting more than 25 persons are limited recipients provided they have met the contract requirements for a limited recipient as set forth in section 426.5.

(1) The application of this rule may be illustrated by the following:

Example (1). ABC Fertilizer Company is a corporation registered in Nebraska and owns 640 acres in District A. District A has amended its contract to conform to the discretionary provisions of title II. ABC Fertilizer Company benefits more than 25 persons and therefore automatically becomes a limited recipient, with all 640 acres of owned land in the corporation eligible to receive irrigation water.

Example (2). XYZ Land Company, a corporation benefiting more than 25 persons and registered in the State of California, owns 320 acres in District A. In the absence of district action, the company makes an irrevocable election to conform to the discretionary provisions of title II. Thereby XYZ Land Company becomes a limited recipient and is entitled to receive irrigation water on 640 acres or less owned.

Example (3). CDE Development Company is a corporation with more than 25 shareholders which chose to incorporate in the Greater Antilles. CDE Development Company buys 320 acres in a district which has amended its contract to conform to the discretionary provisions of title II. However, until such time as CDE Development Company establishes itself as a legal entity under State or Federal law, none of its land is eligible for irrigation water. Had CDE Development Company been receiving irrigation water on 160 acres prior to the district's amendment, it could have continued to receive irrigation water for 5 years under the conditions set forth in § 426.11.

Example (4). Corporation X owns 640 acres in District A as does Corporation Y. Both are subsidiaries of Corporation Z. District A has amended its contract to conform to the discretionary provisions of title II. The landholdings of Corporation X and Y, since they are subsidiaries of Corporation Z, are counted against the entitlement of the parent corporation, Corporation Z. Corporation Z is a limited recipient; therefore, only 640 acres of the 1,280 acres are eligible to receive irrigation water.

Example (5). Farmer X, a qualified recipient, owns 960 acres of land receiving an irrigation water supply. Farmer X is also a shareholder in the XYZ Corporation, a limited recipient, which receives irrigation water for 640 cares it owns. Farmer X's interest in the land in the XYZ Corporation is not counted against his entitlement because he holds less than 4 percent of the stock in the limited recipient corporation, § 426.4(p). Thus, Farmer X is entitled to receive irrigation water for the 960 acres he owns, and the XYZ Corporation is entitled to receive irrigation water for the 640 acres it owns.

(d) *Parties subject to the 160-acre ownership limitation established by prior law.*—(1) *Individuals.* Individuals are entitled to receive irrigation water on no more than 160 acres owned in each district; provided, the land was acquired on or before December 6, 1979. The 160-acre entitlement for an individual applies on a westwide basis to all land acquired after December 6, 1979.

(i) The application of this rule may be illustrated by the following:

Example (1). Farmer X owns 160 acres in each of four districts and all the acreage is receiving irrigation water. None of the districts in which Farmer X owns land has amended its contract to conform to the discretionary provisions of title II, and Farmer X held title to the land prior to December 6, 1979. Thus, Farmer X remains eligible to receive irrigation water on the 640 acres owned in the four different districts. Note: If title to the irrigated land changes hands, the 160-acre westwide entitlement will automatically apply to the transferred land.

Example (2). Farmer Y owns 160 acres in each of two nonamending districts, and all of the acreage is eligible for irrigation water by virtue of the fact Farmer Y owned the land prior to December 6, 1979. On January 1, 1983, Farmer Y purchases another 160 acres in a third nonamending district. The land newly purchased in this district becomes ineligible for service until such time as it is sold to an eligible buyer at a price approved by the Secretary.

(2) *Husband and wife.* A husband and wife, or surviving spouse until remarriage, are entitled to receive irrigation water on 320 acres or less of land jointly owned in each district; provided, the land was acquired on or before December 6, 1979. The 160-acre entitlement for an individual applies on a westwide basis to all land acquired after December 6, 1979.

(3) *Tenants-in-common.* Each individual in a tenancy-in-common is entitled to receive irrigation water on an interest of 160 acres or less provided that no participant in this or any other ownership arrangement receives Federal irrigation water on more than 160 acres owned in each district; provided, the land was acquired on or before December 6, 1979. The 160-acre entitlement for an individual applies on a westwide basis to all land acquired after December 6, 1979.

(4) *Partnerships.* Each partner in a partnership is entitled to receive irrigation water on 160 acres or less owned provided: (i) each partner has a separable interest in the partnership and the right to alienate that interest, and (ii) no partner through this or any other ownership arrangement receives Reclamation project water on more than 160 acres in each district, and (iii) the land was acquired on or before December 6, 1979. The 160-acre entitlement for each individual applies on a westwide basis to all land acquired after December 6, 1979.

(5) *Corporations.* All corporations are considered to be individual entities and as such are entitled to receive irrigation water on 160 acres owned in each district; provided, the land was acquired on or before December 6, 1979. The 160-acre entitlement for each individual applies on a westwide basis for all land acquired after December 6, 1979.

(6) *Trusts.* Land held by an individual or corporate trustee in a fiduciary capacity is not subject to the ownership limitations imposed by prior law. However, the interest of each beneficiary in the trust land in

combination with other land he or she may own shall not exceed the ownership entitlement of prior law.

(e) *Exemptions from ownership limitation.* Irrigation land owned in districts which have been exempted, § 426.13(a) (1) and (2), will not be counted against ownership entitlement. Neither will isolated tracts, § 426.13(a)(4), be counted against ownership entitlement.

(f) *How ownership entitlement is to be computed.* With the exception of land under recordable contract, § 426.11(e), all designated non-excess land, § 426.11(b), and all acreage receiving irrigation water on other than a temporary or short-term basis, as defined in § 426.13(a)(3), from a Reclamation project in a district which is subject to acreage limitation shall be counted against the appropriate ownership entitlement, i.e., qualified recipient, limited recipient, etc.

(1) The principles of this rule may be illustrated by the following:

Example (1). Farmer X, a qualified recipient, owns 1,400 acres in District A and has designated 960 acres as nonexcess and eligible to receive irrigation water. Even though Farmer X may not irrigate all 960 acres every year, all of the designated acreage is counted against his entitlement.

Example (2). Farmer Y, a qualified recipient, owns 640 acres receiving irrigation water in District A. Farmer Y also owns 320 acres which are not in a district, but Farmer Y has entered into a 10-year contract with the United States for irrigation water for that land. All 960 acres receiving irrigation water must be counted for purposes of determining ownership entitlement.

Example (3). Farmer Z, a party subject to prior law, owns 180 acres in District A. This acreage was classified as to its arability during project planning and only 120 acres were deemed irrigable and eligible to receive irrigation water. Some years subsequent to this determination, Farmer X installed a center pivot irrigation system and now irrigates 160 acres with the same amount of water as he once used to irrigate 120 acres. For purposed of entitlement, all 160 acres must be counted.

(g) *Multidistrict ownerships.* Landowners may own land and receive irrigation water in more than one district (multidistrict ownerships). Only one of the districts in which a landowner owns land needs to amend its contract in order to automatically make the multidistrict landowner subject to the discretionary provisions of title II. The irrigation land owned by that recipient in all districts becomes subject to the acreage entitlement of a qualified or limited recipient. Similarly, if a landowner with multidistrict ownership makes an irrevocable election in one district, the irrigation land he or she owns in all districts becomes subject to the discretionary provisions of title II. Under prior law the 160-acre entitlement shall apply on a district basis if the land was acquired prior to December 6, 1979. If it was acquired after December 6, 1979, entitlement shall apply on a westwide basis.

(1) The application of this rule may be illustrated by the following:

Example (1). Landowner X is a U.S. citizen and owns 160 acres in each of Districts A, B, C, and D. All of this land is receiving irrigation water. District A amends its contract to conform to title II. Thereby, Landowner X automatically becomes a qualified recipient by virtue of the fact he is a U.S. citizen and is entitled to receive irrigation water on 960 acres owned westwide Since, in this case, Landowner X's total present ownership is 640 acres, he would be entitled to receive irrigation water on another 320 acres owned.

Example (2). Landowner Y is a citizen of the United States and owns 160 acres in each of Districts A, B, C, D, E, and F. All of his land is receiving irrigation water. In the absence of district action, Landowner Y makes an irrevocable election in District A. By this action Landowner Y automatically becomes a qualified recipient and all owned land receiving water in Districts B, C, D, E, and F must be included in entitlement consideration. Since in this case the landowner already owns 960 acres of irrigation land, he has reached his maximum ownership entitlement.

(h) *Loss of eligibility.* (1) An owner who is receiving irrigation water, and acquires additional irrigation land, shall lose eligibility on any newly purchased land that exceeds the owner's entitlement, unless in the case of land for which irrigation water is not available because facilities have not been constructed to provide such water, the land is placed under recordable contract. Eligibility shall be reestablished if the land is redesignated as nonexcess, section 426.11(b), or is sold at a price approved by the Secretary to an eligible owner who does not hold excess land.

(i) The principles of this rule are illustrated by the following:

Example. Farmer X meets all of the criteria for a qualified recipient as set forth in § 426.6(b)(1). Farmer X irrigates 960 acres of owned land in District A as he is entitled to do. Subsequent to his determination of eligibility, Farmer X buys, in District B, a 320-acre farm which is also receiving irrigation water. All land purchased by Farmer X in District B thereby becomes ineligible for service until such time as Farmer X sells the farm in District B at a price approved by the Secretary. If the 320 acres which Farmer X purchased had never received irrigation water and were in an area for which water distribution facilities had not been constructed, Farmer X could, as provided for in § 426.11(e), place the 320 acres under recordable contract when the facilities become available to serve the land.

§ 426.7 Leasing and full-cost pricing.

(a) *What constitutes a lease.* A lease is a contract by which one party (the landlord or lessor) gives to another (the tenant or lessee) the use and possession of lands (including, in some cases, associated buildings, machinery, etc.) for a specified time and for agreed upon payments (cash or other consideration). The lessee assumes an economic interest in the operation and management of the leased land.

(1) *Exceptions.* Management arrangements or consulting agreements in which the manager or consultant performs a service for the landowner for a fee but assumes no risk in the operation of the land shall not be considered a lease. A contract arrangement for nonreclamation dependent activities which allow for limited use of the land shall also not be considered a lease. Examples of such activities are incidental grazing or use of crop residue from irrigated crops grown on the land. Land which is subleased (the lessee transfers his or her interest to a sublessee) will be attributed to the landholding of the sublessee.

(b) *The form and provisions of a lease.*—(1) *Present leases.* All leases must be in writing and made available by the leaseholders to the Secretary for inspection at the Secretary's request. The term of the lease may not exceed 10 years, including any exercisable option, except in the case of a lease of land for the production of perennial crops having an average life of more than 10 years. In that case, the lease may be for a period of time equal to the average life of the perennial crop, as determined by the Secretary, provided the lease does not exceed 25 years.

(2) *Written leases in existence prior to October 12, 1982.* Land under written leases which were in existence prior to October 12, 1982, and which have a remaining term of longer than 10 years will become ineligible to receive irrigation water after October 12, 1992, unless the leased land is used for the production of perennial crops having an average life of more than 10 years. In that case, the lease may be for a period of time equal to the average life of the perennial crop, as determined by the Secretary, provided the lease does not exeed 25 years.

(c) *Full-cost pricing thresholds on leased land.* Although there is no restriction on the amount of land an eligible lessee may lease, there is a limit on the amount of land for which a lessee may receive irrigation water at the

contract rate. The lessee must pay the full cost for irrigation water delivered to all leased land that exceeds the lessee's entitlement.

(1) *Full-cost threshold for qualified recipients.* Qualified recipients are entitled to receive irrigation water for landholdings (land owned and/or leased) of 960 acres, except as provided in § 426.9, at the rate specified in the district contract. The qualified recipient must pay the full cost for irrigation water delivered to all land leased in excess of 960 acres owned and/or leased.

(i) The application of this rule may be illustrated as follows:

Example (1). Farmer X, a qualified recipient, receives irrigation water at the contract rate on 960 acres in his ownership in District A. Farmer X leases another 160 acres in each of Districts A and B. In order to receive irrigation water on the leased land, he must pay the full cost for that water.

Example (2). Farmer Y, a qualified recipient, owns and receives irrigation water on 960 acres in District A. Farmer Y decides to lease all 960 acres to another qualified recipient, Farmer Z. Farmer Z, however, already farms 960 acres receiving irrigation water. Therefore, the full cost would have to be paid for any irrigation water on land leased from Farmer Y by Farmer Z.

(2) *Limited recipients.* Limited recipients who received irrigation water prior to October 1, 1981, are entitled to receive irrigation water for landholdings of 320 acres, except as provided in § 426.9, at the rate specified in the district contract. The full cost must be paid for irrigation water delivered to all land in the landholding exceeding 320 acres. Limited recipients who were not receiving irrigation water prior to October 1, 1981, must pay the full cost of irrigation water delivered to *all* land in the landholding.

(i) The application of this rule may be illustrated by the following:

Example (1). ABC Farms is a limited recipient which owns and was receiving irrigation water on 640 acres in District A prior to October 1, 1981. Of the total, 480 acres were and continue to be under recordable contract. ABC Farms may continue to receive irrigation water at the contract water rate on the 640 acres until the end of the recordable contract period. It may also amend the recordable contract to allow it to own and receive irrigation water on 640 acres owned. If it amends the recordable contract, it will be allowed to receive irrigation water at the contract rate on 320 acres, but it must pay full cost on the additional 320 acres owned and on any other eligible land it might lease.

Example (2). XYZ Farms, a limited recipient, owns 640 acres of land eligible to receive irrigation water. The purchase of the land took place after October 1, 1981, and XYZ Farms was not receiving irrigation water on any other land prior to October 1, 1981. Therefore, in order for XYZ Farms to receive irrigation water for any eligible land, it must pay the full cost for that water.

Example (3). FGH Fertilizer Company buys 160 acres of land receiving irrigation water in District A. The purchase of the land is made subsequent to October 1, 1981. However, the company was leasing 160 acres in District B prior to October 1, 1981, and continues to lease and receive irrigation water for that leased land. Therefore, since the company was receiving irrigation water in District B prior to October 1, 1981, the 160 acres recently purchased are eligible to receive irrigation water at the contract water rate. If FGH Fertilizer Company buys or leases additional land, the company would have to pay the full cost for any irrigation water delivered to that additional land since the full-cost threshold for a limited recipient receiving irrigation water prior to October 1, 1981, would be exceeded.

(d) *Leasing of land subject to full cost.* Leasing shall not be used as a means to escape full cost by a landholder whose land would otherwise be subject to the full-cost rate.

(1) The application of this rule may be illustrated by the following:

Example. The XYZ Corporation, a limited recipient, receives irrigation water on 640 acres of owned land in District A. Since the corporation was receiving water prior to October 1, 1981, it is entitled to irrigate 320 acres at the contract rate and 320 acres at the full-cost rate. If the corporation were to lease the owned land subject to full cost to another, the full-cost rate would still apply.

(e) *Exemptions from full-cost pricing.* Leased or owned land which has been exempted will not be subject to full-cost payment except as provided in section 426.13(a)(4).

(f) *Restrictions on the selection of the portion of a landholding to receive contract rate water.* If the landholding consists of both owned and leased land, the landholder must select, first, all of his or her owned land for contract rate water before leased land can be selected for receipt of contract rate water.

(1) The application of this rule may be illustrated by the following:

Example. Landholder X, a qualified recipient, owns 500 acres in District A, leases 1,000 additional acres in the same district, and leases 500 additional acres in District B. Landholder X must select the 500 acres of owned land in District A for contract rate water. The remaining 460 acres of his contract rate entitlement may be placed in either District A, District B, or a portion in each.

(g) *Multidistrict landholding.* If a landholder has multidistrict landholdings, only one of those districts needs to amend its contract for the landholder's owned and/or leased land receiving irrigation water in all districts to become subject to full-cost pricing.

(h) *Calculating full cost.*—(1) *What constitutes full cost.* As set forth in section 426.4, the term "full cost" means an annual rate as determined by the Secretary that shall amortize the expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal Reclamation law or applicable contract provisions, with interest on both accruing from October 12, 1982, on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to October 12, 1982. Operation, maintenance, and replacement charges required under Federal Reclamation law shall be collected in addition to the full-cost payment.

(i) *Amortization period.* The amortization period for calculating the full-cost rate shall be the remaining balance of the repayment period for the district as specified in its repayment contract. However, in those cases, such as in water service contracts, where payment by a district through its existing contract term will not fully discharge its obligation for repayment of construction costs and where, in accordance with the project authorization the district must renew its water service contract, the district may extend the amortization period for the calculation of full costs by renegotiating its current water service contract at the time it amends its contract to conform to the discretionary provisions of title II. The amortization period may extend up to the expiration date of the new contract, and the term of the new contract cannot exceed the payback period authorized by Congress.

(ii) *Allocable construction expenditures.* For determining full cost, the construction costs properly allocable to irrigation are those Federal project costs which have been assigned to irrigation within the overall allocation of total project construction costs. Total project construction costs include all direct expenditures necessary to install or implement a project, such as planning, design, land, rights-of-way, water-rights acquisitions, construction expenditures, interest during construction, and when appropriate, transfer costs associated with services provided from other projects.

(iii) *Facilities in service (irrigation).* Facilities in service are those facilities which are in operation and providing irrigation services.

(iv) *Operation and maintenance deficits funded.* O&M deficits funded are the annual O&M costs including project-use pumping power allocated to irrigation which have been federally funded and which have not been paid by the irrigation contracting entity.

(v) *Payments.* In calculating the payments which have been received, all receipts and credits applied to repay or reduce allocated irrigation construction costs in accordance with Reclamation law, policy, and applicable contract provisions shall be considered. These may include: (A) direct repayment contract revenues, (B) net water service contract income, (C) contributions, (D) ad valorem taxes, and (E) other miscellaneous revenues and credits excluding power and M&I (municipal and industrial) revenues.

(vi) *Unpaid balance.* The unpaid balance is the irrigation allocated construction costs plus cumulative federally funded O&M deficits, less payments.

(2) *Calculating the full-cost rate.* The Secretary will calculate a district's full-cost rate using accepted accounting procedures. The definition of "full cost" contained in title II does not recover interest charges retroactively before October 12, 1982, but interest charges on the unpaid full cost do accrue from the date of the act. The full-cost rate for amended contracts will be determined as of the date of enactment. The full-cost rate for districts which enter into contracts after the date of enactment will be determined at the time the new contract is executed. For repayment contracts, the full-cost rate will fix equal annual payments over the amortization period. For water service contracts, the full-cost rate will fix equal payments per acre-foot of projected water deliveries over the amortization period. If there are additional construction expenditures or the cost allocated to irrigation changes, then a new full-cost rate will be determined. The Secretary will notify the respective districts of changes in the full-cost rate at the time he notifies the district of other payments due the United States.

(i) The application of this rule may be illustrated by the following:

Example (1). District A contains 90,000 irrigable acres. The construction costs allocated to irrigation for the project and to be repaid by District A amount to $240 million. As of October 12, 1982, the district's accumulated repayments are $174 million, the unpaid obligation on District A's repayment contract is $66 million, and 11 years remain on its contract term. The established annual contract rate is $66.67 per acre. This amount repays the outstanding balance of the contractual obligation in 11 years. As of October 12, 1982, the unpaid balance for full cost is $66 million (allocated cost, less payments) or $733.33 per acre, and the applicable interest rate is determined to be 7⅛ percent. Therefore, the equal annual payments for full cost would be $100.24. This payment is calculated using standard amortization tables and is equivalent to the annual payment necessary to retire a debt of $733.33 at a 7⅛ percent rate of interest over 11 years. This rate will apply regardless of when District A amends its contract.

Example (2). District B has a water service contract which establishes a rate of $6.50 an acre-foot for 90,000 acre-feet of water delivered to the district, a rate which is fixed over the remaining 10 years of the contract term. Currently, $1.00 of the $6.50 rate is used to pay annual O&M charges. The remainder is credited to the repayment of irrigation construction costs, although inflation over the next 10 years is expected to leave a $5.00 per acre-foot payment to irrigation, averaged over the remaining 10 years. The construction costs to be repaid from irrigation revenues and assignable to be repaid by the land in District B are $24 million, and the district has paid $15.5 million of those costs to date.

As of October 12, 1982, the accumulated payments credited to repayment on construction are $15.5 million. The unpaid balance for full cost is $8.5 million ($24 million less $15.5 million), and the applicable interest rate is determined to be 7⅛ percent. Amortizing the unpaid balance over the remaining contract term of 10 years results in an annual full-cost rate of $1,384,016, or $15.38 per acre-foot. Normal O&M charges would be collected annually in addition to this rate.

Upon expiration of the current contract, the district expects to enter into a subsequent water service contract in order to expand its water deliveries. If District B desires to amortize its unpaid balance for full cost over a longer period than 10 years, it can choose to renegotiate its existing contract before the current contract expires to bring it into conformance with current Bureau policy. When the district renegotiates its contract, the unpaid balance for full cost could be reamortized, at the district's option, for any period up to the term of the new water service contract, which cannot exceed the repayment period authorized by Congress. For example, suppose the new water service contract runs for 18 years and is executed immediately. If the district chooses to amortize full cost over the longest permissible repayment period (18 years), then the full-cost rate would be $10.88 per acre-foot. If the district chooses to amortize over 15 years, the full-cost rate would be $11.96 per acre-foot, assuming the unpaid costs remain the same.

Example (3). District C contains 90,000 irrigable acres, and the construction costs allocated to irrigation for the project and assignable to be repaid amount to $240 million. As of October 12, 1982, the accumulated repayments of the district are $174 million. The district's repayment obligation is $200 million. (The $40 million difference between construction costs allocated to irrigation and the repayment obligation is scheduled to be paid from other project revenues.) The unpaid obligation on District C's repayment contract is $26 million, and 11 years remain on its contract term. The annual rate established by the contract is $26.26 per acre. This amount repays the outstanding balance of the contractual obligation in 11 years. As of October 12, 1982, the unpaid balance for full cost is $66 million (allocated cost, less payments) or $733.33 per acre, and the applicable interest rate is determined to be 7⅛ percent. Therefore, the equal annual payment for full cost would be $100.24 per acre.

(i) *Interest rate calculations for full cost.* In determining full cost, the interest rates to be used will be determined by the Secretary of the Treasury as follows:

(1) *Qualified recipients and limited recipients receiving water before October 1, 1981.*

(i) The interest rates for expenditures made on or before October 12, 1982, shall be the greater of 7⅛ percent per annum or the weighted average yield of all interest-bearing marketable issues sold by the Treasury during the fiscal year in which the expenditures were made by the United States.

(ii) The interest rate for expenditures made after October 12, 1982, shall be the arithmetic average of the rate as of the beginning of the fiscal year in which expenditures are made based on (A) the computed average interest payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance and (B) the weighted average yield on all interest-bearing marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made.

(2) *Limited recipients not receiving irrigation water on or before October 1, 1981.* The interest rate shall be the arithmetic average of the rate as of the beginning of the fiscal year in which expenditures are made based on (i) the computed average interest payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance and (ii) the weighted average yield on all interest-bearing marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made: *Provided,* That the interest rate for expenditures made before October 12, 1982, shall be determined as of October 12, 1982.

(j) *Proportional charges for full-cost water.* (1) For those water delivery charges levied by a district per acre-foot of irrigation water delivered, as compared to per acre of land, there shal be a proportional charge for water delivered to a landholding in that

district which reflects the relative amounts of contract and full-cost water rate land in the farm operation. The proportional rate will be equal to the weighted average of the contract rate and the full-cost rate in proportion, respectively, to (i) the acres of land eligible for irrigation water at the contract rate and (ii) the acres of land eligible for irrigation water at full cost. Such a district shall calculate the proportional rate for each water user based upon the information provided in the certification forms furnished to the district pursuant to section 426.10. The district shall make no adjustment in the proportional rate for a water user until it receives a revised certificate indicating the number of acres receiving irrigation water in a landholding has changed, or irrigation water is delivered to land added to the water user's landholding, whichever occurs first.

(2) Use of the proportional rate removes the necessity of separately assigning irrigation water amounts to those portions of landholdings that are eligible to receive water at the contract and full-cost rate. Water bills or other district records will set forth the contract rate, the full-cost water rate, and the amount of acreage to which each applies, as well as the proportional rate.

(i) The application of this rule may be illustrated by the following:

Example. District A has a water service contract which specifies a rate of $4.00 per acre-foot for irrigation water. The full-cost rate plus annual O&M costs is determined to be $16.00. If Operator Y has a landholding of 1,000 acres, he will pay a proportional rate for water of $4.48 per acre-foot of water delivered anywhere in his landholding (96 percent of $4.00 plus 4 percent of $16.00). This rate is equal to the weighted average of the previous contract rate and the full-cost rate, where the weights are the respective acreages of land eligible to receive water at the contract rate and at full cost. If Operator Y uses 3 acre-feet of water per acre, total water charges will be $13,440 per year (1,000×3×$4.48). If Operator Y reduces the size of his operation by 30 acres, then the proportional water charge will be $4.12, and his total water charges for using 3 acre-feet per acre will be $12,000, or $1,440 less than with the 1,000-acre operation. This reduction in water charges is equal to the full-cost rate of $16.00×3×30.

(k) *Disposition of revenues obtained through full-cost water pricing.* The interest and full-cost revenues, less the appropriate contract rate, shall be credited to the Reclamation fund or as otherwise provided by law. The portion of the full-cost rate, which would have been collected if the land had not been subject to full cost, shall be credited to the annul payments due under contractual obligation from the district.

§ 426.8 Operation and maintenance charges.

(a) *Districts with new or amended contracts.* A district which enters into a new or amended contract will be required to pay annually all O&M costs due the United States. They are to be paid to the United States on a schedule that is acceptable to the Secretary. O&M costs shall include minor replacement costs for facilities funded during the year. Each year the Secretary shall estimate and advise the district of its O&M charges. The price of irrigation water will be modified annually, if necessary, to reflect any changes in O&M costs in a manner that conforms with current Bureau of Reclamation policy. Furthermore, the price of irrigation water shall be at least sufficient to pay the actual O&M costs chargeable to the district for that year. The district's contract shall be amended accordingly to provide for the annual adjustment of all such changes in costs. The difference between the estimated and actual O&M costs, as determined at the end of the annual period, will be reflected through adjustment of the following year's O&M charges. Major replacement costs, such as those caused by disaster, obsolescence, or otherwise, will be capitalized under regular Bureau accounting practices.

(1) The principles of this rule may be illustrated by the following:

Example (1). A district amends its water service contract to conform to the discretionary provisions of title II. Prior to its amendment, the water service contract obligated the district to pay a fixed rate of $3.50 per acre-foot for water for the remaining 10 years of its 30-year contract term. Assuming the current O&M cost is $8.50, the new rate will be $6.50 with provision for future adjustment. If 1 year after the contract is amended, O&M costs increased by $0.25, then the new rate would be $6.75.

Example (2). A district amends its water service contract to conform to the discretionary provisions of title II. Prior to its amendment, the water service contract obligated the district to pay a fixed rate of $12.50 per acre-foot for water for the remaining 10 years of its 30-year contract term. Assuming the current O&M cost (the O&M rate applicable at the time the district amends or the elector elects) is $6.50, the new rate will continue to be $12.50 per acre-foot until such time as the then-current O&M cost exceeds $12.50. Thereafter, the new rate will be equal to the then-current O&M cost. When the term of the contract expires, the district will be required to execute a new contract at a new rate in accordance with law and Departmental policy existing at that time.

Example (3). A district's repayment contract obligates it to pay $4.00 per acre for the remaining 5 years of its 40-year contract. It is also obligated under the terms of its contract to pay the full O&M costs due the United States on an annual basis in addition to its repayment obligation. If the district were to amend its contract to conform to the discretionary provisions of title II, no change in its present repayment arrangement with the United States would be necessary since under the terms of its contract it is already paying its full O&M costs on an annual basis. Note: Although the district's contract repayment rate would not change, it would be further obligated because of the amendment to conform to the discretionary provisions of title II to collect full-cost payments from landholders whose holdings make them subject to such payments.

(b) *Landholders who make irrevocable elections.* Landholders who make irrevocable election (thereby becoming limited or qualified recipients) must pay their portion of the full O&M costs annually for land in their landholding receiving irrigation water. The district(s) in which the recipients landholding is situated shall be required to collect from the recipient his or her portion of the full O&M charges due and to forward such collections to the United States.

(c) *Districts which do not amend their contracts.* Districts which do not amend their existing contracts will continue to pay O&M charges under the terms and conditions of their existing contracts.

§ 426.9 Class 1 equivalency.

(a) *In general.* Upon the request of any district having a contract which conforms to the discretionary provisions of title II, or as provided in § 426.9(g), the Bureau of Reclamation shall make a class 1 equivalency determination for that district. This determination will establish for the district the acreage of land with lower productive potential (classes 2, 3, and 4) that would be necessary to be equivalent in productive potential to the most suitable land in the local agricultural economic setting (class 1). Once these determinations have been made, individual landowners with classes 2, 3, and 4 land will have the right to an increased acreage entitlement equivalent in productive potential to 960 acres of class 1 land, in the case of a qualified recipient, or 640 acres of class 1 land, in the case of a limited recipient.

(b) *Date requirements and use.* Class 1 land and land in lower classes shall be indentified on a district basis by the Bureau of Reclamation using a standard approach in which the land classification for the entire district is considered. Equivalency factors shall then be computed for the district and applied to specific tracts within individual landholdings. If adequate land classification data are not

available, they shall be developed using standard procedures as set forth in Reclamation Instructions Series 110, Part 115, Land Resources Investigations; and Series 510, Land Classification Techniques and Standards. Economic data will be developed using procedures found in Reclamation Instructions Series 110, Part 116, Economic Investigations.

(1) *Definition of class 1 land.* Class 1 land is defined and will be classified as that irrigable land within a particular agricultural economic setting which: (i) most completely meets the various parameters and specifications established for irrigable land classes; (ii) has the relatively highest level of suitability for continuous, successful irrigation farming; and (iii) is estimated to have the highest relative productive potential measured in terms of net income per acre (reflecting both productivity and costs of production). The objective is to establish the acreage of each of the lower classes of land which is equal in productive potential (measured in terms of net farm income) to 1 acre of class 1 land. All land that has not been classified will be considered class 1 land for purposes of determining acreage entitlement under these rules until such time as the land has actually been classfied.

(2) *How land classes are determined.* The extent and location of class 1 land and land in lower land classes in a district have been, or will be, determined by the Bureau of Reclamation, taking into account the influence of economic and physical factors upon the productive potential of the land lying within the district. These factors include, but are not limited to: the physical and chemical characteristics of the soil, topography, drainage status, costs of production, land development costs, water quality and adequacy, elevation, crop adaptability, and length of growing season and their effect on agricultural practices.

(3) *Level of detail.* Acceptable levels of detail for land classification studies to be utilized in making class 1 equivalency determinations for a given district shall be evaluated on the basis of the physical and agricultural economic characteristics of the area. In areas for which no current classification exists or the existing classification is unacceptable, the level of detail of the land classification to be made will never be greater than that required to make class 1 equivalency determinations where the sole purpose of the classification is such a determination.

(4) *Economic studies.* The economic studies related to class 1 equivalency determinations will measure net farm income by land classes within the district. Net farm income shall be determined by the disposable income accruing to the farm operator's labor, management, and equity from the sale of farm crops and livestock produced on irrigated land after all fixed and variable costs of production, including costs of irrigation service, are accounted for. Net farm income will be the measure of productivity to establish equivalency factors reflecting the acreage of each of the lower classes of land which is equal in productive potential to 1 acre of class 1 land.

(5) *Equivalency factors.* Equivalency factors shall be determined by comparing the weighted average farm size required to produce a given level of income on each of the lower classes of land with the farm size required to produce that income level on class 1 land.

(i) The principles of this rule may be illustrated by the following:

Example. Farmer X has a total landholding of 1,300 acres in District A. That acreage includes 800 acres of class 1 land, 300 acres of class 2 land, and 200 acres of class 3 land. The equivalency factors for the district have been determined to be: class 1 = 1.0, class 2 = 1.20, and class 3 = 1.50. Using these equivalency factors, the following landholding in terms of class 1 equivalency would apply:

Class 1 800 acres divided by 1.0 = 800 acres class 1 equivalent
Class 2 300 acres divided by 1.2 = 250 acres class 1 equivalent
Class 3 200 acres divided by 1.5 = 133 acres class 1 equivalent

Thus, Farmer X's total landholding of 1,300 acres is equal to 1,183 acres of class 1 land in terms of productive capacity. It will be necessary for him to dispose of the equivalent of 223 acres of class 1 land (1,183 acres minus 960 acres). This can be accomplished in any of several ways. If he should desire to maximize his actual acreage, he would dispose of 223 acres of class 1 land, retaining 577 of class 1, 300 acres (250 acres class 1 equivalent) of class 2, and 200 acres (133 acres class 1 equivalent) of class 3. This would result in a total of 1,077 actual acres which would equal 960 acres of class 1 land in production capacity. Or, he could maximize his holding of class 1 and 2 lands by retaining 800 acres of class 1 land and 192 acres (192 divided by 1.2 = 160 acres class 1 equivalent) of class 2 land. This total landholding of 992 acres would, again, be equal in productive capacity to 960 acres of class 1 land. In the latter case, he would have to dispose of all 200 acres of his class 3 land and 108 acres of his class 2 land.

(6) *Special considerations.* For equivalency purposes, all irrigable land will be classified as either class 1, class 2, or class 3; no other classifications are permissible. Class 4 and special-use land classes will be allocated to one of these three classes on a case-by-case basis.

(c) *Scheduling.* District requests for equivalency determinations will be scheduled by region, with the Regional Director of each of the seven regions of the Bureau of Reclamation having responsibility for such scheduling. Generally, requests will be honored on a first-come-first-served basis. However, if requests exceed the region's ability to fulfill them expeditiously, priority will be given on the basis of greatest immediate need.

(d) *Land classification costs.* The Bureau of Reclamation has provided basic land classification data as part of the project development process since 1924. Where the Secretary determines that acceptable land classification data are not available for making requested class 1 equivalency determinations and where the provision of these data was the responsibility of the Bureau of Reclamation during the project development process, such data will be made available at Bureau of Reclamation expense. Districts in projects authorized for construction prior to 1924 must pay one-half the costs of new land classification studies required to make accurate equivalency determinations.

(e) *Economic study cost.* The cost of performing new or additional economic studies and computations inherent in the equivalency process shall be the responsibility of the requesting district.

(f) *Appeals.* When basic land classification data are available for a district, but the district does not agree with its accuracy or asserts that the data have become outdated, the district may request, and the Bureau of Reclamation may perform, a reclassification under the authority contained in the Reclamation Project Act of 1939 (Pub. L. 76–260). The requesting district shall pay for one-half of the cost of performing such reclassifications and the full cost of all other studies inherent in the equivalency process.

(g) *Individual requests.* Individual requests for class 1 equivalency determinations will be accepted if the individual landowner, in the absence of district action, has made an irrevocable election to come under the provisions of title II and if the district agrees to pay for the determination for the entire district. (The arrangement between the landowner and the district to pay the cost of the equivalency determination does not involve or concern the United States.) Requests for equivalency must be made by or through the district. Equivalency will be applied only to that land which is the subject of an

individual election for which equivalency has been requested.

(1) The application of this rule may be illustrated by the following:

Example (1). A district with an existing contract decides not to amend its contract to come under the discretionary provisions of title II. However, an individual landowner within the district may make an irrevocable election to come under these provisions. The landowner can request equivalency through the district, and the district may request the Secretary to make the equivalency determination for the entire district. The district would be required to pay the United States for the cost of making the equivalency determination. The payment of the costs between the landowner and the district would be a district matter. The application of equivalency would be available only to the landowner(s) who exercise an irrevocable election.

Example (2). A district decides to amend its contract to come under the discretionary provisions of title II, but it elects not to request equivalency. Thus, individual landholders within the district are not entitled to equivalency until after the district makes the equivalency request and the Bureau of Reclamation has acted upon that request.

(h) *Excess land.* Until a final determination has been made by the Bureau of Reclamation on the district's request for equivalency, all land exceeding the basic ownership entitlement for qualified or limited recipients must be under recordable contract in order to be eligible for irrigation water. Once the determination has been made, the qualified recipient may withdraw land from the recordable contract in order to reach an acreage equivalent to 960 acres of class 1 land, and the limited recipient may withdraw land from the recordable contract in order to reach an acreage equivalent to 640 acres of class 1 land.

(1) *Protection during classification.* The Bureau of Reclamation will protect the excess landowner's property interests by ensuring that equivalency determinations are completed in advance of maturity dates on recordable contracts, provided the district's request for an equivalency determination was made at least 6 months prior to the maturity of the recordable contract and the district fulfills its obligations under section 426.9 of these rules.

(2) *Protection during appeal.* In cases of equivalency determination appeals, the Secretary will not undertake the sale of the reasonable increment of the excess land under matured recordable contract which could be affected by a reclassification as long as that appeal is determined by the Secretary not to be an attempt to thwart the sale of excess land.

(i) *Full-cost charges.* Once the Bureau of Reclamation has acted upon the district's request and made a final equivalency determination, the full-cost water pricing structure would not come into effect until the total landholding westwide exceeds the qualified or limited recipient's landholding entitlement with equivalency. During the time when the determinations were being made, however, the full cost would be assessed on land receiving water in excess of the qualified or limited recipient's basic entitlement without equivalency. If the qualified or limited recipient's basic entitlement is increased because of the equivalency determination, he or she shall be reimbursed any overcharges which were paid during the period between the time of the request for an equivalency determination and the Bureau of Reclamation's final determination.

(1) The principles of this paragraph may be illustrated by the following:

Example (1). Landholder X is a qualified recipient who owns no land, but leases 1,100 acres in a district which has requested equivalency. The land leased is a mix of classes 1, 2, and 3 land. During the time the equivalency determination was being made, Landholder X would be required to pay the full-cost water rate on 140 acres (1,100 acres leased minus the 960 acres basic entitlement at the contract water rate) if he elected to continue to receive irrigation water on that land. Once the equivalency determinations had been completed, Landowner X would be entitled to lease the equivalent of 960 acres of class 1 land at the contract water rate (something greater than 960 acres). Landowner X would also be reimbursed for full-cost payments made for land which became non-excess as a result of the equivalency determinations.

Example (2). Landholder Y is a limited recipient who owns 700 acres of land and leases another 160 acres in District A. District A has requested and received an equivalency determination. However, Landholder Y was not receiving project water prior to October 1, 1981. Thus, even with equivalency, he would be required to pay the full-cost water rate for all land served in his landholding. (If Landholder Y had been receiving project water prior to October 1, 1981, he would have been entitled to receive water on the equivalent of 320 acres of class 1 land at the contract water rate. Deliveries on the remainder of something less than 540 acres would be at the full-cost rate.)

(j) *Multidistrict landholdings.* A landholder with holdings in more than one district is entitled to equivalency only in those districts which have requested equivalency (or are already subject to equivalency). That part of the landholding in a district or districts not requesting equivalency will be counted as class 1 land for purposes of overall entitlement.

(1) The application of this rule may be illustrated by the following:

Example (1). Landholder X is a qualified recipient and owns 320 acres in each of three districts. One of those districts, District A, requests and receives an equivalency determination. From the equivalency determination, Landholder X is shown to own the equivalent of 240 acres of class 1 land in District A. Landholder X is therefore entitled to buy an additional 80 acres receiving irrigation water in some other district or he could lease 80 acres in some other district and receive irrigation water for it at the contract rate. In District A itself, Landholder X could buy an additional 80 acres of class 1 land or something greater than 80 acres of class 2 or 3 land. If Landholder X preferred to lease in District A, he could lease 80 acres of class 1 land or something greater than 80 acres of class 2 or 3 land and receive irrigation water for that leased land at the contract water rate.

Example (2). Landholder Y owns 1,200 acres in District A and 160 acres in District B. Landholder Y is a qualified recipient and has designated 800 acres in District A as nonexcess and put the 400 acres of excess land under recordable contract so that it can be irrigated while still in his ownership. Subsequent to this nonexcess land designation, District A requests and receives an equivalency determination. Landholder Y is then free to withdraw excess land from recordable contract to take advantage of the equivalency determination in Distict A. Landholder Y, when able to show good cause, may even redesignate the nonexcess land under recordable contract, section 426.11(b), if an appraisal of the excess land has not already been requested and performed. The maturity date as determined in the original contract, however, would not change.

(k) *Existing equivalency determinations.* In districts where equivalency was a provision of project authorization, those equivalency factor determinations will be honored as originally calculated unless the district requests a reclassification.

§ 426.10 Certification and reporting requirements.

(a) *Certification.* Landowners and lessees within a district which has a contract that conforms to *all provisions of* title II shall furnish the district, in a form provided by the Bureau of Reclamation, a certificate *setting forth facts showing* that they are in compliance with the ownership and leasing provisions of that law.

(1) *Irrevocable electors.* Landowners or lessees who, in the absence of district action, have made an irrevocable election to be subject to title II must also certify through the nonamending district that they are in compliance. The elector shall also file a statement, signed by the landowner, for land he or she holds as a

lessee whereby the landowner concurs with the inclusion of his or her irrigation land in the elector's landholding which will be subject to the discretionary provisions of title II.

(b) *Reporting.* Landholders who do not come under the expanded ownership entitlement and leasing provisions of title II, but who are subject to the ownership limitations of prior law, must report through the district on the irrigation land in their ownership and the extent and conditions of leases held. They must also attest that they are in compliance with the ownership limitations imposed by prior law. The reporting form will be provided to the district by the Bureau of Reclamation.

(c) *Certification and reporting form data requirements.* (1) Certification and reporting forms will require a full disclosure of irrigation land owned and leased in all districts, the identification of the operator or operators of that land, the number of acres leased, the terms of any lease, and certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him or her a complete copy of any lease.

(2) All members of a qualified recipiency must be identified on the certification form. A limited recipient, however, is not required to identify its participants or shareholders provided no participant owns more than 4 percent of the recipiency. If a participant owns more than 4 percent of the limited recipiency, he or she must be identified on the certification form.

(d) *Schedule for completing certification and reporting forms.* Certification and reporting forms will be required as a condition for the receipt of irrigation water except as provided in paragraph (f) of this section. They will be required on an annual basis. If, during the course of the year, there is any change in the information submitted on the certification and reporting form, a new declaration must be made and submitted to the district within 15 days of the change.

(e) *Short form availability.* If no change has occurred in a landholding between annual certification and reporting dates, a short form will be available for completion to satisfy the certification or reporting requirement. This form will make it possible for the landholder to simply validate that the information contained on the last fully completed form is still accurate.

(f) *Exemptions.* Landholders whose total irrigation land westwide is 40 acres or less are exempt from the certification and reporting requirements.

(g) *District participation.* Each district shall be required to make the necessary blank certification and/or reporting forms available to district landholders and to keep the current certification and reporting forms on file and available for Bureau of Reclamation inspection. If the landholder has filled out a short form for the current year, the last fully completed long form must also be kept on file so that all the landholder's land may be identified. All superseded certificates and reports should be retained by the district for 3 years and thereafter may be destroyed by the district. Additionally, each district will be required to summarize the information contained on these documents and submit the summary to the Bureau of Reclamation annually. The summary form to be used by the district will be provided by the Bureau of Reclamation. The district shall notify the Bureau of Reclamation of any discrepancies in the certification and reporting forms.

(h) *Auditing.* The Secretary may conduct field audits, as necessary, to ensure compliance with title II.

(i) *False statements.* The following statement will be included in all certification and reporting forms:

> Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to $10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction.

False statement by the landholder will result also in loss of eligibility. Eligibility could only be regained upon the approval of the Secretary.

(j) *Failure to report.* Failure to submit the required certification or reporting form to the district will result in loss of eligibility by the individual landholder. Eligibility will be regained once the required form is submitted to the district.

(k) *OMB approval.* The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance Nos. 1006–0004, 1006–0005, 1006–0006. The information is being collected to comply with sections 206 and 228 of the act. These sections require that, as a condition to the receipt of irrigation water, each landowner and lessee in a contracting entity which is subject to the acreage limitation provisions of Reclamation law, as amended and supplemented by the RRA, will furnish to his or her district annually a certificate/report which indicates that he or she is in compliance with the provisions of Reclamation law. The information collected on each landholding will be summarized by the district and submitted to the Bureau in a form prescribed by the Secretary. Completion of these forms is required to obtain the benefit of irrigation water.

§ 426.11 Excess land.

(a) *In general.* As set forth in § 426.4, "excess land" means irrigation land, other than exempt land, owned in excess of the maximum allowable acreage under Reclamation law. In determining excess land, all irrigation land in all districts held by any landowner shall be considered. Delivery of irrigation water to excess lands is allowed only if any one of the following conditions applies: (1) The land is exempt from the acreage limitation and full-cost provisions of Reclamation law, (2) the excess land has been placed under recordable contract by the landowner, or (3) the land was involuntarily acquired into excess status through inheritance, foreclosure, or other similar involuntary process.

(b) *Designation of nonexcess land.* The owner of excess land shall designate that portion of his or her irrigation land that is to be considered nonexcess. Designation shall be in accordance with provisions in the district's repayment or water service contract, provided designation procedures are specified in the contract and the entire landholding is in one district.

(1) *Designation procedures when not established by contract.* If designation provisions are not specified in the district contract, the landowner must designate that portion of the land in the ownership which is to constitute the nonexcess entitlement within 30 days of Secretarial notification to the district and that landowner. The designation will take into account all irrigation land owned by the landowner. If the landowner fails to make the nonexcess designation within 30 days, the district shall make the designation within 30 days thereafter. If the district does not make the required designation, the Secretary shall then make the designation.

(2) *Designation procedures if land is owned in more than one district.* If the land in the ownership is situated in more than one district, the landowner has 60 days from the date of notification to the district and the landowner to make the designation. The Secretary shall make the designation for the landowner if designation is not made within 60 days.

(3) *Status of nonexcess land and redesignation.* The nonexcess

designation, whether made by the landowner, the district, or the Secretary, will be binding on the land and will be filed with the district and the Bureau of Reclamation. These regulations governing excess land will apply to the excess land resulting from that designation. A landowner may redesignate his or her nonexcess land from excess land in the ownership with the approval of the Secretary. If the landowner is not eligible for equivalency, he or she must make an equal exchange of acreage through the redesignation. If the landowner is eligible for equivalency the redesignation may be made on the basis of equivalent acres.

(4) *Existing nonexcess land designations.* Existing nonexcess land designations made prior to October 12, 1982, can be amended at the request of the landowner to conform with the discretionary provisions of title II: Provided, the district has a new or amended contract which conforms to those provisions or the landowner elects to come under those provisions through an irrevocable election.

(i) The application of this rule may be illustrated by the following:

Example (1). Landowner X is a qualified recipient by virtue of an irrevocable election. He owns 1,200 acres in District A, of which 960 acres have been designated nonexcess and are receiving irrigation water. With the approval of the Secretary, Landowner X may redesignate the 240 acres, which are now excess, as nonexcess and eligible to receive irrigation water, provided he redesignates 240 acres of presently nonexcess land as excess.

Example (2). Landowner Y is a U.S. citizen and a qualified recipient by virtue of District A's contract amendment to conform to the discretionary provisions of title II. Landowner Y owns 1,400 acres of land of which 960 acres have been designated nonexcess and are receiving irrigation water. Subsequent to this designation the district requests and receives an equivalency determination. All 1,400 acres of Landowner Y's land is class 3 land, and in District A, 1 acre of class 1 land is equal to 1.4 acres of class 3 land. With equivalency, Landowner Y may irrigate 1,344 acres of class 3 land in District A. Thus, he may redesignate everything in his ownership as nonexcess except for 56 acres.

Example (3). Landowner Z is a resident alien and owns 480 acres in District A. Landowner Z has designated 160 acres as nonexcess, and it is receiving irrigation water. Following this designation, District A amends its contracts to conform to the discretionary provisions of title II. As a result of the district amendment, Landowner Z satisfies the requirements for a qualified recipient and may designate all 480 acres as nonexcess.

(c) *Treatment of land ineligible under prior law.* Land ineligible for irrigation water deliveries because it was acquired from excess status without Secretarial approval prior to October 12, 1982, the period provided for executing recordable contracts under the district repayment or water service contract has expired, or the landowner failed to comply with other requirements of prior law as determined by the Secretary, may be brought into eligible status if prior to April 12, 1987, either the district in which the land is located amends its contract to conform to the discretionary provisions of title II or the present landowner of the ineligible land makes an irrevocable election to conform to the discretionary provisions of title II.

(1) The principles of this rule may be illustrated by the following:

Example (1). Landowner X bought 160 acres in District A from excess status in 1975. Landowner X, however, failed to get sale approval from the Secretary. That land has been ineligible for service since 1975. Prior to April 12, 1987, the district in which the land is located amends its contract to conform to the discretionary provisions of title II. Landowner X's 160 acres thereby become eligible for service provided he can meet the requirements of a qualified or limited recipient.

Example (2). Landowner Y and his wife owns 1,200 acres in District B. Landowner Y and his wife are receiving irrigation water on 320 acres owned which was their maximum entitlement under prior law. The remaining 880 acres are ineligible for service and cannot ever be brought under recordable contract because the district contract stipluates a 10-year grace period from date for first water delivery to the district for bringing excess land under recordable contract. That period has long since expired.

Landowner Y makes an irrevocable election prior to April 12, 1987, to conform to the discretionary provisions of title II. By that election Landowner Y, as a qualified recipient, is entitled to receive irrigation water on 960 acres owned. He and his wife may even place the remaining 240 acres in their ownership under a 5-year recordable contract. Had Landowner Y made the election after April 12, 1987, he would have still been entitled to receive irrigation water on 960 acres owned, but he could not have placed the remaining 240 acres under recordable contract.

(d) *Excess land not under recordable contract.* Excess land not under recordable contract must be conveyed to an eligible owner in a sale or transfer at a price and on terms and conditions approved by the Secretary in accordance with section 426.12 in order to be eligible to receive irrigation water.

(e) *Recordable contracts.* Excess land becomes eligible to receive irrigation water if the owner enters into a recordable contract with the Secretary. The excess owner must agree to dispose of the excess land, excluding mineral rights and easements, to an eligible owner under terms and conditions and at a sale price approved by the Secretary in accordance with § 426.12. The period allowed for the disposition of excess land under recordable contracts executed after October 12, 1982, may not exceed 5 years from the date the recordable contract is executed by the Secretary (except for the Central Arizona Project where the disposition period provided will be 10 years from the date water becomes available to the land). Water deliveries may begin on the date the Secretary receives a written request from the landowner to execute a recordable contract. The landowner has 20 working days from that date to execute the recordable contract unless the Secretary waives the 20-day limitation. Land placed under recordable contract may receive irrigation water at the rate specified in the contract of the district so long as it is in the landholding of the landowner. Land under recordable contract which is leased to another, however, will be subject to the full-cost provisions of title II if the lessee's landholding exceeds the specified limitations except as provided in § 426.11(g).

(1) The principles of this rule may be illustrated by the following:

Example. Landowner X is a qualified recipient and owns 1,400 acres in District A. The landowner places 440 acres under recordable contract so that he may receive irrigation water at the contract water rate on all owned land in the district. Subsequently Landowner X leases the 440 acres under recordable contract to Landholder Y who is a limited recipient. Landholder Y was receiving irrigation water prior to October 1, 1981, and presently owns 320 acres receiving irrigation water. Under the circumstances, Landholder Y has already reached his full entitlement at the contract water rate; therefore, the full cost must be paid for any irrigation water delivered to the 440 leased acres. Leasing the land to Landowner Y does not affect other terms of the recordable contract.

(f) *Restriction on placing excess land under recordable contract.* Except as provided in § 426.6(h), a landowner who acquires irrigation land after October 12, 1982, for which irrigation water is available, and by so doing places himself or herself in excess status, shall lose eligibility to receive irrigation water on that land and shall not be permitted to place the land so acquired under recordable contract. In order for the excess land to regain eligible status, the sale would have to be canceled or the excess owner would have to sell the land at a price approved by the Secretary.

(g) *Recordable contracts in effect prior to October 12, 1982.* Recordable contracts executed prior to October 12, 1982, will continue in effect. However,

landowners with such existing recordable contracts may request that their contracts be amended to conform to the expanded ownership limitations contained in title II. The Secretary shall amend those contracts accordingly if (1) the district enters into a new or amended contract which conforms to the discretionary provisions of title II or (2) the excess landowner makes an individual election. The disposition period for such amended recordable contracts shall not be extended except as provided in § 426.11(i).

(h) *Deed covenant.* In order for land acquired from excess status, whether under recordable contract or not, to be eligible to receive irrigation water, the following covenant must be placed in the deed transferring the land to the purchaser, except as provided in paragraphs (j) and (k) of this section. In order to be eligible for water service, the following covenant shall be placed in all deeds of land acquired from excess status, whether bought under recordable contract or not:

For a period of 10 years from the date of this deed, sale by the landowner and his or her assigns of these lands for any value that exceeds the sum of the value of newly added improvements plus the value of the land as increased by market appreciation unrelated to the delivery of irrigation water will result in the ineligibility of this land to receive Federal project water. This covenant is to satisfy the requirements in section 209(f)(2) of Pub. L. 97-293.

(i) *Extension of disposition periods for recordable contracts.* Owners of excess land under recordable contract who were prevented from selling their excess land because of Secretarial moratorium or court order shall be allowed an additional period of time to sell their excess land under recordable contract:

(1) *Westlands Water District, California.* After the order of the court in *National Land for People* v. *Andrus or any similar court order, if any, is lifted and the Secretary again commences processing the sales of excess land under recordable contract, landowners with such land in the Westlands Water District, California, will be allowed a period of time equal to the time remaining on that recordable contract on August 13, 1976, to sell land under recordable contract. The Secretary will notify the affected landowners as to applicable dates.*

(i) The principles of this rule may be illustrated by the following:

Example. A landowner in the Westlands Water District entered into a recordable contract on October 13, 1972. The recordable contract provided for a 10-year disposition period which would end on October 13, 1982. On August 13, 1976 (the date of the court-ordered moratorium on processing sales of excess land in the Westlands District), there were 6 years and 2 months remaining in the disposition period. Assuming the court-ordered moratorium is lifted and the Secretary commences processing sales of excess land in the Westlands Water District on January 1, 1984, the disposition period for the recordable contract will be extended for 6 years and 2 months from that date or to March 1, 1990. The contract will mature at that time and the Secretary's power-of-attorney to sell the land will vest.

(2) *All other districts.* A moratorium on processing sales of excess land was issued by the Secretary on June 27, 1977. This moratorium applied to all landowners with recordable contracts in all districts other than the Westlands Water District. The Commissioner of Reclamation delayed sales by other directives. Landowners affected by these actions will be given an additional period of time to dispose of their land. The extension shall be calculated from the date that processing sales of excess land is resumed and shall be equal to the time remaining on the recordable contract when the moratorium was imposed. The resumption date shall be determined by the Secretary, and he shall notify all affected landowners.

(i) The principles of this rule may be illustrated by the following:

Example. A landowner in District A entered into a recordable contract on June 27, 1975. The recordable contract provided for a 10-year disposition period which would end June 27, 1985. The landowner was prevented from selling the land under recordable contract by the Secretarial moratorium of June 27, 1977. At that date, the recordable contract had a remaining disposition period of 8 years. The disposition period for the recordable contract will be extended 8 years from the date processing sales is resumed. The resumption date shall be determined by the Secretary.

(3) *How extensions of recordable contracts are to be accomplished.* The Secretary shall prepare and execute amendatory agreements to extend recordable contracts for the appropriate period of time. The amendatory agreement will establish the new maturity date for the recordable contract and will be recorded by the Secretary in the official records of the county in which the land covered by the recordable contract is located. A copy of the amendatory agreement will also be sent to the affected landowner by the Secretary.

(4) *Water rates for land under extended recordable contracts.* Land under recordable contract which is held by a water user not subject to the discretionary provisions of title II may continue to receive irrigation water at the contract water rate for the extended term of the contract, except as provided in section 426.11(e). Land under recordable contract which is held by a qualified or limited recipient may continue to receive irrigation water deliveries at the contract rate for the original disposition period of the recordable contract. The water rate for land under recordable contract held by a qualified or limited recipient during an extended contract period shall be determined as follows: The contract water rate shall apply until the date 18 months after the date the Secretary resumes the processing of excess land sales, or until the extended contract period expires, whichever occurs first, and after the date 18 months from the date the Secretary resumes the processing of excess land sales, water deliveries shall be made at full cost for the duration of the extended contract period.

(i) The principles of this rule may be illustrated by the following:

Example (1). Landowner X entered into a recordable contract on June 27, 1972. The recordable contract provided for a 10-year disposition period which ended on June 27, 1982. However, landowner X was prevented from selling the land by the Secretarial moratorium of June 27, 1977. The district in which the land is located amended its contract to conform to the discretionary provisions of title II on January 1, 1983. Since landowner X had 5 years remaining on the original recordable contract when the moratorium was imposed, the contract will be extended for 5 years from the date the processing of the sale is resumed. The resumption date will be determined by the Secretary. Landowner X must pay the full cost, however, for any irrigation water delivered to the land under recordable contract beginning 18 months from the date the moratorium is lifted.

Example (2). Landowner Y entered into a recordable contract with a 10-year disposition period on June 27, 1976. Landowner Y was prevented from selling the land by the secretarial moratorium of June 27, 1977. At that time, 9 years remained in the disposition period of the recordable contract. The district in which the land is located amended its contract to conform with the discretionary provisions of title II on January 1, 1983. The Secretary resumes the processing of the excess land sale on January 1, 1984. The original disposition period of the recordable contract expires on June 27, 1986, which is more than 18 months after the Secretary resumed the processing of the excess land sale. Therefore, Landowner Y must pay the full cost for water deliveries to that land beginning June 27, 1986, for the duration of the extended contract period. The extended contract period will expire on January 1, 1993, 9 years after the Secretary resumed the processing of the excess land sale.

(j) *Sale of excess land under recordable contract by the Secretary.* All recordable contracts shall provide that a power-of-attorney shall vest in the Secretary to sell the land under recordable contract if the landowner does not dispose of the excess land within the period specified. The land shall be deemed "disposed of" for this purpose if the landowner has complied with all requirements for the sale of excess land under these rules within the period specified whether the Secretary gives his final approval of the sale within that period or thereafter. The Secretary shall conduct such excess land sales, once the power-of-attorney has vested. The Secretary shall use the following procedures:

(1) *Surveys.* A qualified surveyor shall make a land survey when determined necessary by the Secretary. The cost of the survey will be paid by the United States and added to the sale price for the land. The cost shall be reimbursed to the United States from the proceeds of the sale.

(2) *Appraisals.* The Secretary shall appraise the excess land to determine the approvable sale price. The cost of the appraisal shall be paid by the United States. Such cost shall be added to the approved sale price and shall be reimbursed to the United States out of the proceeds of the sale.

(3) *Advertising.* The Secretary shall advertise the sale of the property in the newspapers within the county in which the land lies, in farm journals, in other similar publications, and by other public notices he determines advisable. The notices shall state (i) the minimum acceptable sale price for the property (which equals the appraised price plus the cost of the appraisal, survey, and advertising), (ii) that the land will be sold by auction for cash or on terms acceptable to the landowner to the highest bidder whose bid equals or exceeds the minimum sale price, and (iii) the date for such sale (which shall not exceed 90 days from the date of the advertisement). The advertisement costs for the sale will be added to the sale price for the land and reimbursed to the United States from the sale proceeds.

(4) *Distribution of proceeds.* The proceeds from the sale of the land shall be paid first, to the landowner in the amount of appraised value; second, to costs due the United States for costs of the survey, appraisal, advertising, etc.; and third, to the United States any remaining proceeds, which will be credited to the Reclamation fund or other funds as prescribed by law.

(5) *Closing.* The sale of the excess land shall be closed by the Secretary when all sale arrangements have been completed. The Secretary shall execute a deed conveying the land to the purchaser. There shall be no requirement for a covenant in the deed, paragraph (h) of this section, restricting the resale of the land.

(6) *Water deliveries.* Excess land under matured recordable contracts will be eligible to continue to receive irrigation water at the current applicable rate until the land is sold by the Secretary.

(k) *Land which becomes excess because of westwide application or enforcement of other requirements of law.* Land may become excess through the westwide enforcement of acreage limitation or because of restrictions on delivery of water to nonresident aliens. Owners may place such land under recordable contract as provided in paragraph (e) of this section. The recordable contract in such situations shall be modified to permit the landowner to sell the excess land to an eligible purchaser without price approval by the Secretary. The deed conveying the excess land shall not contain the standard covenant, paragraph (h) of this section, requiring sale price approval by the Secretary for a period of 10 years following initial sale. The land shall be sold in accordance with the procedures established in paragraph (i) of this section if the Secretary's power-of-attorney to sell the land vests.

(l) This rule may be illustrated by the following:

Example. Landowner X and his wife are U.S. citizens and own 320 acres receiving irrigation water in each of Districts A, B, C, and D. District A amends its contract to conform to title II. Landowner X and his wife automatically and without benefit of choice become a qualified recipient and as such are entitled to irrigate no more than 960 acres westwide with irrigation water. Since their present ownership exceeds 960 acres receiving irrigation water, 320 acres would have to be placed under recordable contract if it were to remain eligible to receive irrigation water. Landowner X could sell the land at fair market value at any time within 5 years of the contract date.

§ 426.12 Excess land appraisals.

(a) *In general.* The following regulations shall apply to all appraisals of excess land except when the excess land is subject to a recordable contract and/or a contract which was in force on October 12, 1982, and these regulations are inconsistent with the provisions of those contracts.

(1) All appraisals of excess land will be based on the fair market value of the land at the time of appraisal without reference to the construction of the irrigation works. Standard appraisal procedures including the income, comparable sales, and cost methods shall be used as applicable. Nonproject water supply factors as provided in paragraph (a)(3) of this section shall be considered as appropriate.

(2) Improvements shall be appraised on the basis of their contributory fair market value as of the date of appraisal, using standard appraisal procedures.

(3) The nonproject water supply factors of: (i) Ground-water pumping lift, (ii) surface water supply, (iii) water quality, and (iv) trends associated with paragraph (a)(3) (i), (ii), (iii) of this section shall be considered by the appraiser where appropriate. The Bureau of Reclamation, in conjunction with the district, if it so desires, shall develop the nonproject water supply and trend information. Excess landowners and prospective buyers may submit information relevant to these determinations to the district or the Bureau of Reclamation. The Bureau of Reclamation may also conduct public meetings and forums and solicit input from sources to obtain data that may be considered in developing the ground-water trend information. Data submitted may include historic geological data, changing crops and cropping patterns, and other factors associated with the nonproject water supply. If the Bureau of Reclamation and the district cannot reach agreement on the data within 60 days, the Secretary shall review and update the trend information as he deems necessary and make all final determinations considering the data provided by the Bureau of Reclamation and the district. These data will be provided to appraisers and shall be considered in the appraisal process. Each appraisal will clearly explain how the data were used in the valuation of the excess lands.

(4) The date of appraisal shall be the date of last inspection by the appraiser(s) unless there is an existing signed instrument such as an option, contract for sale, agreement for sale, etc., affecting the property, in which case the date of appraisal will be the date of such instrument.

(b) *When appraisals are to be made.* Appraisals of excess lands shall be made upon request of the landowner(s) or when required by the Secretary. If a request for an appraisal is not received from the landowner(s) within 6 months of the maturity date of the recordable contract, the Secretary may initiate the appraisal.

(c) *Appraiser selection and appraisal cost.* Each appraisal of excess land shall be made by a qualified appraiser selected by the Secretary except as

provided in paragraph (d) of this section. The cost of the first appraisal of any excess land shall be paid by the United States. When the excess land is sold, the cost of the first appraisal shall be added to the sale price and reimbursed to the United States by the excess-land purchaser. Any costs associated with additional appraisals requested by the excess landowner shall be paid by that landowner provided the value of the land established by a reappraisal does not exceed the value established in the first appraisal by more than 10 percent. However, if the difference in the appraisal values exceeds 10 percent, the United States will pay for the reappraisal.

(d) *Appeals.* An excess landowner may request a second appraisal if the excess landowner disagrees with the first appraisal. The second appraisal shall be prepared by a panel of three qualified appraisers, one designated by the United States, one designated by the district, and the third designated jointly by the first two. This appraisal shall be binding on both parties after review and approval as provided in paragraph (e) of this section. As such, it fixes the maximum value of the excess land.

(e) *Review process.* All excess land appraisals shall be reviewed by the Bureau of Reclamation for technical accuracy and compliance with these Rules and Regulations, applicable portions of Uniform Appraisal Standards for Federal Land Acquisition—Interagency Land Acquisition Conference 1973, Reclamation Instructions, and any detailed instructions provided by the Secretary setting conditions applicable to an individual appraisal.

§ 426.13 Exemptions.

(a) *In general.* The following are exempt from acreage limitation, pricing, and other provisions of Federal Reclamation law as indicated:

(1) *Corps of Engineers projects.* Land receiving an agricultural water supply from Corps of Engineers projects is exempt from title II and other provisions of Reclamation law unless it has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal Reclamation project or the Secretary has provided project works for the control or conveyance of an agricultural water supply from the Corps project to the subject land. This exemption does not relieve district agricultural water users from obligations, pursuant to contracts with the Secretary, to repay their share of construction, O&M, and contract administration costs of the Corps project allocated to conservation or irrigation storage. The Secretary shall determine the exemption status for land receiving an agricultural water supply from the Corps of Engineers projects. He shall notify affected districts of the exemption status of that land. District repayment or water service contracts containing provisions imposing acreage limitation for those lands served from Corps projects which are exempt will be amended to delete those provisions at the request of the district.

(2) *Reclamation projects.* Land in districts shall be exempt when the district has repaid all obligated construction costs for project facilities for that land in accordance with the terms of the district's contract with the United States. Payments by periodic installments over the contract repayment term, as well as lump-sum and accelerated payment allowed in the district's contract, shall qualify the district or individual for exemption. An individual landowner will be exempt upon repayment of construction charges allocated to that owner's land, if provided for in a contract with the United States. When a district has discharged its obligation to repay construction costs for project facilities, the Secretary shall notify the district that it is exempt from acreage limitation and the full-cost provisions of law; however, such an exception shall not relieve a district or individual from paying, on an annual basis, the O&M costs chargeable to that district or individual. At the request of an owner of a landholding for which repayment has occurred, the Secretary shall provide a certificate to that owner acknowledging the landholding is free of the ownership and full-cost pricing limitations of Federal Reclamation law. The certification and reporting requirements for acreage limitation and full-cost pricing will no longer apply to districts or landholders for exempt land. The continuation of the exemption will be considered on a case-by-case basis if additional construction funds for the project are requested.

(3) *Temporary supplies of water.* Temporary water supplies are water supplies which are not storable for project purposes. They may be infrequent or unmanaged floodflows of short duration. Such water supplies can be made available to land without regard to the acreage limitation and full-cost provisions of Federal Reclamation law for a temporary period not to exceed 1 year in the following manner:

(i) Unusually large water supplies or unmanaged floodflows can be made available by the Secretary as temporary supplies to excess land. The Secretary shall announce the availability of such temporary supplies to districts. Districts desiring deliveries of such temporary water supplies to excess land shall request the Secretary to make such deliveries. Upon approval by the Secretary, the district shall be notified of the availability of the temporary supply and conditions for its use. The temporary supply of water shall be delivered under contracts not to exceed 1 year in accordance with existing policies and priorities. Such deliveries must not have any adverse effect on other authorized project purposes. The Secretary shall determine the price, if any, a district is to be charged and other conditions that may apply for such temporary water deliveries.

(4) *Isolated tracts.* Isolated tracts which can be farmed economically only if included in a larger farming operation shall not be subject to the ownership limitations of Federal Reclamation law. However, in the case of landowners who have become subject to the discretionary provisions of title II, full-cost shall apply to all applicable water deliveries to such isolated tracts that are in excess of the ownership limitation. Isolated tract determinations shall be made by the Secretary at the request of the landowner.

(5) *Rehabilitation and Betterment Programs.* R&B (Rehabilitation and Betterment) loans, pursuant to the R&B Act of October 7, 1949, as amended, are not considered loans for construction, but rather loans for maintenance, including replacements which cannot be financed currently; provided, that the project for which the loan is requested or made is a project authorized under Federal Reclamation law prior to the submittal of the request for an R&B loan to the Bureau of Reclamation by or for the district. Because funds advanced for R&B loans do not constitute construction charges, they are not to be considered in determining whether the obligation of a district for the repayment of the construction costs of project facilities used to make project water available for delivery to such land has been discharged by the district. A loan for an R&B program shall not be the basis for reinstating acreage limitation in a district which has completed payment of its construction obligation nor for increasing the construction obligation of the district and extending the period during which acreage limitation will apply to that district.

§ 426.14 Residency.

Residency is not a requirement for the delivery of irrigation water from Reclamation project facilities. Existing recordable contracts and certificates

containing provisions requiring the purchaser of excess land to be a resident or agree to become a resident within a specified time period shall be revised to delete this requirement.

§ 426.15 Religious and charitable organizations.

(a) *Ownership entitlement.* Religious or charitable organizations which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, including parishes, congregations, schools, wards, or similar organizations which own or operate landholdings in Federal Reclamation projects, will be treated as qualified recipients: *Provided,* (1) that either the district in which the land is situated enters into a new or amended contract, or the religious or charitable organization or its subdivision owning or operating land in the district elects to come under the discretionary provisions of title II; (2) that the agricultural produce and the proceeds of sales of such produce are used only for charitable purposes; (3) that the land is operated by the individual religious or charitable entity or organization (or subdivisions); and (4) that no part of the net earnings of the religious or charitable entity or organization (or subdivision) shall accrue to the benefit of any private shareholder or individual.

(b) *Ownership entitlement under prior law.* The provisions of the prior law will apply if neither the district nor the religious or charitable organization or its subdivision elects to conform to the discretionary provisions of title II. Each parish, ward, congregation, or other subdivision of the organization shall be considered an individual under prior law.

(1) The principles of this rule may be illustrated by the following:

Example (1). A charitable organization which meets the requirements of title II has subdivisions in each of five different districts. Each of these districts amends its contract to conform to the discretionary provisions of title II. Therefore, each subdivision is entitled to own and farm 960 acres of irrigation land.

Example (2). A religious organization owns 960 acres in District A which has amended its contract to conform to the discretionary provisions of title II. The religious organization farms 640 acres in its ownership and leases the remaining 320 acres to a private landholder. The 320 acres leased are ineligible for irrigation water until such time as it is farmed by the religious organization.

Example (3). A religious organization which meets the requirements of title II has subdivisions in each of Districts A, B, C, and D. Each subdivision operates 800 acres of irrigation land. Districts A and B amend their respective contracts to conform to the discretionary provisions of title II; therefore, the subdivisions in Districts A and B are entitled to own or operate 960 acres of irrigation land. Districts C and D do not amend their contracts to conform to the discretionary provisions of title II and remain subject to the acreage restrictions contained in the prior law. The subdivisions in Districts C and D, however, make individual elections to conform to the discretionary provisions of title II and are therefore entitled to own or operate 960 acres of irrigation land.

(c) *Affiliated farm management.* A religious or charitable organization or its subdivision which elects to conform to the discretionary provisions of title II or owns or operates land in a district which enters into a new or amended contract may retain its status as a qualified recipient and still affiliate with a more central organization of the same faith in farm operation and management. Affiliated farm management shall be permitted regardless of whether the subdivision is the owner of record of the land being operated.

(1) The principles of this rule may be illustrated by the following:

Example. A religious organization holds title to 1,280 acres in District A and 1,280 acres in District B. The acreage in District A is operated jointly by two subdivisions and the acreage in District B is operated by three subdivisions in separate farms of 300, 300, and 680 acres. Farm operations are coordinated by the religious organization through managers at each farm. Each subdivision is a qualified recipient and entitled to operate 960 acres of irrigation land. The religious organization is entitled to own the acreage being operated by its affiliated subdivisions in each district.

(d) *Leasing.* The full-cost provisions dealing with leased land shall apply to religious or charitable organizations or their subdivisions.

(1) The principles of this rule may be illustrated by the following:

Example. A charitable organization has subdivisions in each of Districts A, B, C, and D. Each of these districts has amended its contract to conform to the discretionary provisions of title II. Each subdivision in Districts A, B, and C owns and operates 800 acres of irrigation land. The subdivision in District D owns and operates 960 acres and leases another 160 acres, all of which are receiving irrigation water. The subdivision in District D is obligated to pay the full cost for irrigation water delivered to the 160 acres leased.

§ 426.16 Involuntary acquisition of land.

(a) *Nonexcess land.* Nonexcess land which becomes excess because it is acquired through involuntary foreclosure (or similar involuntary process) in satisfaction of a debt, by gift, or through inheritance is eligible to receive irrigation water in the new ownership for a period of 5 years. The new owner will be required during the 5-year period to pay the same price for water as the former owner. The price is established by the district's contract with the United States. Although land acquired from nonexcess status involuntarily may be sold at any time by the new owner without approval by the Secretary, it will become ineligible to receive irrigation water after 5 years and will remain ineligible until it has been sold to an eligible owner. Nonexcess land acquired involuntarily may not be placed under recordable contract by the new owner.

(b) *Excess land.* Excess land which is under recordable contract and which is acquired by involuntary foreclosure or other involuntary process may continue to receive irrigation water under the terms of the recordable contract. However, the new owner must agree to assume the recordable contract and execute an assumption agreement provided by the Secretary. Such land will be eligible to receive irrigation water for 5 years from the date it was acquired involuntarily or for the remainder of the recordable contract period, whichever is longer. The sale of such land shall be under terms and conditions set forth in the recordable contract and must be satisfactory to and at a price approved by the Secretary.

(c) *Mortgaged land.* Mortgaged land which changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of the mortgage, (1) is eligible to receive irrigation water in the new ownership for a period of 5 years or until transferred to an eligible landowner, whichever occurs first, and (2) may be sold at its fair market value.

§ 426.17 Land held by governmental agencies.

(a) *Acreage limitation.* Irrigation land held by States, political subdivisions, or agencies thereof which are farmed primarily for a non-revenue producing function, as determined by the Secretary, shall not be subject to the acreage limitation and full-cost provisions of Federal Reclamation law.

(b) *Sales* Irrigation land held by States, political subdivisions, or agencies thereof may be sold without price approval. Once sold, such land will be eligible to receive irrigation water provided the purchaser meets the eligibility requirements to own land and receive irrigation water.

(c) *Leasing.* States, political subdivisions, or agencies thereof and agencies of the Federal Government

may lease irrigation land they own or control to an eligible landholder up to the landholder's basic entitlement under Federal Reclamation law (960 acres for a qualified recipient, 640 acres for a limited recipient, or 160 acres for landholders in districts where the prior law applies unless otherwise provided by law).

(1) The principles of this rule may be illustrated by the following:

Example. Farmer X is a qualified recipient in the State of Colorado and owns and irrigates 160 acres of land with irrigation water. The State of Colorado may lease Farmer X an additional 800 acres of State-owned land which will make up the balance of Farmer X's basic entitlement. Farmer X is still entitled, however, to lease additional acreage which may be irrigated at full cost provided that additional acreage is not owned by a governmental agency.

§ 426.18 Commingling

(a) *Existing commingling provisions in contracts.* Provisions in repayment and water service contracts entered into prior to October 1, 1981, which define project and nonproject water or describe the delivery of project water through nonproject facilities or nonproject water through project facilities, shall continue in effect. They shall apply to renewed contracts the district enters into with the United States as well.

(b) *Establishment of commingling provisions in contracts*

(1) New, amended, or renewed contracts may provide that irrigation water may be commingled with agricultural water from other sources in nonfederally financed facilities when standards can reasonably be established to assure on a volumetric basis that the water requirements of eligible flands are sufficient to utilize the full supply of irrigation water. The provisions of Federal Reclamation law and these regulations will be applicable only to the irrigation water under these circumstances.

(2) Commingling irrigation water and water from other sources in federally financed facilities will make the water from other sources subject to Federal Reclamation law and these regulations unless otherwise provided by the Secretary.

(3) Acquisition of irrigation water from federally financed facilities by exchange shall not subject such water to Federal Reclamation law and these regulations if no material benefit results from the exchange

(i) The priniciples of this rule may be illustrated by the following:

Example. District A has water rights to divert water from a river. These water rights are adequate to meet its requirements. It is located immediately adjacent to a federally financed facility. District B is located immediately adjacent to the river by several miles from the Federal facility. Rather than construct several miles of conveyance facility, District B contracts with District A to allow its water rights water to flow down the river for use by District B. Water from the federally financed facility is in turn delivered to District A. District A is not subject to Federal Reclamation law and these regulations by virtue of this exchange. District B, however, is subject to Federal Reclamation law and these regulations since it is the beneficiary of the exchange, i.e., a water supply.

§ 426.19 Water conservation.

(a) *In general.* The Secretary shall encourage the full consideration and incorporation of prudent and responsible water conservation measures in all districts and for the operations of all non-Federal recipients of irrigation water from Federal Reclamation projects.

(b) *Development of a plan.* Districts that have entered into repayment contracts or water service contracts according to Federal Reclamation law including the Water Supply Act of 1958, as amended (43 U.S.C. 390b), shall develop a water conservation plan which contains definite objectives which are economically feasible and a time schedule for meeting those objectives.

(c) *Federal assistance.* The Bureau of Reclamation will cooperate with the district, to the extent possible, in studies to identify opportunities to augment, utilize, or conserve the available water supply.

§ 426.20 Public participation.

(a) *In general.* The Bureau of Reclamation will publish notice of proposed irrigation or amendatory irrigation contract actions in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

(1) Each public notice or news release shall include, as appropriate, (i) a brief description of the proposed contract terms and conditions being negotiated; (ii) date, time, and place of meeting or hearings; (iii) the address and telephone number of a Bureau employee to address inquiries and comments; and (iv) the period of time in which comments will be accepted.

(2) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(3) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(4) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act [80 Stat. 383], as amended.

(5) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within time limits set forth in the advance public notices.

(6) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(7) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contract as they become available for review and comment.

(8) In the event modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary. Factors which shall be considered in making such a determination shall include, but are not limited to: (i) the significance of the impact(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties which requested the contract in response to the initial public notice.

§ 426.21 Small reclamation projects.

(a) Small Reclamation project loans entered into after October 12, 1982, shall be subject to the provisions of the Act of August 6, 1956 (43 U.S.C. 422e) as amended by section 223 of Pub. L. 97–293.

(b) Small Reclamation project loans which were entered into prior to October 12, 1982, shall continue to be subject to the provisions of that loan contract, provided that the loan contract may be amended at the request of the non-Federal party to conform to the Act of August 6, 1956, as amended by section 223 of Pub. L. 97–293, and provided further that no other provision of the loan contract shall be altered, modified, or amended without the consent of the non-Federal party.

(c) No other section of these regulations shall be deemed applicable to Small Reclamation project loans.

§ 426.22 Decisions and appeals.

Unless otherwise provided by the Secretary the Regional Director shall make any determination required under these rules and regulations. A party directly affected by such determination may appeal in writing to the Commissioner of the Bureau of Reclamation within 30 days of receipt of the Regional Director's determination. The time for appeal may be extended by the Secretary. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief or memorandum to the Commissioner. The Regional Director's determination will be held in abeyance until the Commissioner have reviewed the matter and rendered a decision. Pertinent addresses are shown below:

Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW, Washington, DC 20240

Regional Director, Pacific Northwest Region, Bureau of Reclamation, 550 West Fort Street, PO Box 043, Boise, ID 83724

Regional Director, Mid-Pacific Region, Bureau of Reclamation, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825

Regional Director, Lower Colorado Region, Bureau of Reclamation, Nevada Highway and Park Street, PO Box 427, Boulder City, NV 89005

Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, PO Box 11568, Salt Lake City, UT 84147

Regional Director, Southwest Region, Bureau of Reclamation, 714 South Tyler, Amarillo, TX 79101

Regional Director, Upper Missouri Region, Bureau of Reclamation, 316 North 26th Street, PO Box 2553, Billings, MT 59103

Regional Director, Lower Missouri Region, Bureau of Reclamation, Building 20, Denver Federal Center, PO Box 25247, Lakewood, CO 80225

§ 426.23 Severability.

If any provision of these rules or the applicability thereof to any person or circumstances in held invalid, the remainder of these rules and the application of such provisions to other persons or circumstances shall not be affected thereby.

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Part III

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Eastern Gulf of Mexico; Oil and Gas Lease Offering; Leasing Systems

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Eastern Gulf of Mexico
Oil and Gas Lease Offering (January 1984)

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). A revision of those regulations appeared in the Federal Register on June 16, 1982, at 47 FR 25967 and 26031.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered in person to the above address until the Bid Submission Deadline at 10:00 a.m., c.s.t., January 4, 1984. Bids will not be accepted on January 5, 1984, the day of Bid Opening. Delivery by mail should be addressed to P.O. Box 7944, Metairie, Louisiana 70010, and must be received by the Bid Submission Deadline. Bids received by the Regional Manager (RM) later than the Bid Submission Deadline specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the RM prior to 10:00 a.m., c.s.t., January 4, 1984. Bids may not be withdrawn unless written withdrawal is received by the RM prior to 8:30 a.m., c.s.t., January 5, 1984. Bid Opening Time will be 9:00 a.m., c.s.t., January 5, 1984, at the Hyatt Regency New Orleans, 500 Poydras Plaza, Ballroom E, New Orleans, Louisiana. 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 appeared in the Federal Register at 48 FR 45318 on October 4, 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; date of offering; Official Protraction Diagram number(s); Official Protraction Diagram name(s), if applicable, and block number(s)), not to be opened until 9:00 a.m., c.s.t., January 5, 1984," must be submitted for each block bid upon. For example, a label would read as follows: "Sealed Bid for Oil and Gas Lease, Eastern Gulf of Mexico (January 1984), NG 17-4, (Charlotte Harbor) Block 705, not to be opened until 9:00 a.m., c.s.t., January 5, 1984." 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 of the unleased portions of a block will be considered. Partnerships also need to submit or have on file a list of signatories authorized to bind the partnership.

All documents must be executed in conformance with signatory authorizations on file. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this offering must provide for a cash bonus in the amount of $150 or more per acre or fraction thereof. All leases awarded for this offering will provide for a yearly rental payment of $3 per acre or fraction thereof. Leases awarded under 4(a) and (b) will provide for a minimum royalty of $3 per acre or fraction thereof. The bidding systems to be utilized for this offering apply to blocks as shown on map 2 entitled "Eastern Gulf of Mexico Lease Offering, January 1984, Stipulations, Lease Terms, and Bidding Systems, Final" available from the Gulf of Mexico OCS Regional Office at the address stated in paragraph 2. The following bidding systems will be used:

(a) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the blocks offered under this system must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

(b) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the blocks offered under this system must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See paragraph 14, "Information to Bidders and Lessees."

6. Bid Opening. Bids will be opened at the Bid Opening Time, stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of Bid Opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid, will be deposited by the Government in an interest bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this offering prior to issuance of a written acceptance of a bid for that block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted and no lease for any block will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this notice, the OCS Lands Act, as amended, or applicable regulations, may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders. To obtain a lease on the block bid upon, 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 256 Subpart I within the following time periods:

(a) 15 days, if payment is made by Federal Reserve check. Federal Reserve checks are instruments which originate at Federal Reserve member banks. These checks are to be drawn on the New Orleans Federal Reserve Branch. Cut-off time for the presentation of Federal Reserve checks to the Gulf of Mexico OCS Regional Manager or his designee shall be specified at the time that leases are transmitted to successful bidders for execution.

(b) 14 days, if payment is made by commercial checks. Commercial checks are instruments drawn on a commercial bank located in New Orleans, Louisiana. Cut-off time for the presentation of commercial checks to the Gulf of Mexico OCS Regional Manager or his designee shall be specified at the time that leases are transmitted to successful bidders for execution.

11. Official Protraction Diagrams. Blocks offered for lease may be located on the following Official Protraction Diagrams which may be purchased for $2.00 each from the Gulf of Mexico OCS Regional Office at the address stated in paragraph 2 of this notice:

Outer Continental Shelf Official Protraction Diagrams.

NH 16-5	Pensacola	(Approved June 2, 1983)
NH 16-8	Destin Dome	(Approved December 2, 1976)
NH 16-11	De Soto Canyon	(Approved December 2, 1976)
NG 16-2	-	(Approved December 2, 1976)
NH 16-9	Apalachicola	(Approved June 2, 1983)
NH 16-12	Florida Middle Ground	(Approved December 2, 1976)
NG 16-3	The Elbow	(Approved December 2, 1976)
NG 16-6	-	(Approved December 2, 1976)
NG 16-9	Howell Hook	(Approved April 18, 1979)
NH 17-7	Gainesville	(Approved June 2, 1983)
NH 17-10	Tarpon Springs	(Approved June 2, 1983)
NG 17-1	St. Petersburg	(Approved June 2, 1983)
NG 17-4	Charlotte Harbor	(Approved June 2, 1983)
NG 17-7	Pulley Ridge	(Approved October 24, 1978)

12. Description of the Areas Offered for Bids.

(a) Acreages of full and partial blocks occurring at the meeting of map borders appear on Official Protraction Diagrams (see paragraph 11). Acreages of split blocks on the Federal/State boundary appear on the set of drawings entitled "Split Blocks - Eastern Gulf of Mexico, Final," available from the Gulf of Mexico OCS Regional Office (see paragraph 14(a)).

(b) Blocks identified on maps 1 and 2 entitled "Eastern Gulf of Mexico Lease Offering, January 1984, Stipulations, Lease Terms, and Bidding Systems, Final" as being deferred from bidding will not be offered at this time.

(c) The areas offered for leasing include all those blocks shown on the OCS Official Protraction Diagrams listed in paragraph 11, except for those blocks identified in paragraph 12(b) above and those described as follows:

NH 16-5, Pensacola
971
973-974

NH 16-8, Destin Dome
529
573-574
618

NG 16-3, The Elbow
871

NG 17-1, St. Petersburg
753

NG 16-6
258-259
302-303
609-611
653-654

NG 17-4, Charlotte Harbor
144-145
187-188
221
231
265
577-581
621-623
627-628
665-668
671-672
709-712
715-716
753-756
796-798
840-843
886-887
931-932
975

13. Lease Terms and Stipulations.

(a) Leases resulting from this offering will have initial terms as shown on map 2 entitled "Eastern Gulf of Mexico Lease Offering, January 1984, Stipulations, Lease Terms, and Bidding Systems, Final," and will be on Form MMS-2005 (August 1982). Copies of the map and forms are available from the Gulf of Mexico OCS Regional Office at the address stated in paragraph 2.

(b) The applicability of stipulations 1 through 6 that will be included in leases resulting from this offering is as shown on map 1 entitled "Eastern Gulf of Mexico Lease Offering, January 1984, Stipulations, Lease Terms, and Bidding Systems, Final," available from the Gulf of Mexico OCS Regional Office.

Stipulation No. 1

(This stipulation will apply to all blocks offered for lease in this offering.)

(a) "Cultural resource" means any site, structure, or object of historic or prehistoric archeological significance. "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Manager (RM) believes a cultural resource may exist in the lease area, the RM will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RM, to determine the potential existence of any cultural resource that may be affected by operations. The report, prepared by an archeologist and geophysicist, shall be based on an assessment of data from remote sensing surveys and other pertinent cultural and environmental information. The lessee shall submit this report to the RM for review.

(2) If the evidence suggests that a cultural resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the cultural resource may be; or

(ii) Establish to the satisfaction of the RM that a cultural resource does not exist or will not be adversely affected by operations. This shall be done by further archeological investigation, conducted by an archeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RM. A report on the investigation shall be submitted to the RM for review.

(3) If the RM determines that a cultural resource is likely to be present on the lease and may be adversely affected by operations, he will notify the lessee immediately. The lessee shall take no action that may adversely affect the cultural resource until the RM has told the lessee how to protect it.

(c) If the lessee discovers any cultural resource while conducting operations on the lease area, the lessee shall report the discovery immediately to the RM. The lessee shall make every reasonable effort to preserve the cultural resource until the RM has told the lessee how to protect it.

Stipulation 2

(To be included only in leases on blocks within the 100 meter isobath and also on blocks or portions of blocks located south of 26° N. latitude regardless of water depth for activities conducted under Plans of Exploration; for activities conducted under Plans of Development and Production, this stipulation shall apply to leases on blocks within the 200 meter isobath.)

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease, including, but not limited to, well drilling and pipeline and platform placement, the lessee will submit to the Regional Manager (RM) a bathymetry map prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 meters radius of a proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, seagrasses, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the RM photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations. For activities in water depths greater than 70 meters, this photo-documentation will be required regardless of the remote sensing data interpretation.

If it is determined that the live bottom areas might be adversely impacted by the proposed activities, then the RM will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

(a) the relocation of operations to avoid live bottom areas;
(b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;
(c) the transportation of drilling fluids and cuttings to approved disposal sites; and

(d) the monitoring of live bottom areas to assess the adequacy of any mitigating measures taken and the impact of lessee initiated activities.

Monitoring requirements in (d) above will be required for all blocks or portions of blocks located south of 26° N. latitude.

Stipulation 3

(To be included only in leases on blocks or portions of blocks south of 26° N. latitude)

No application to implement an approved exploration plan through the Application for Permit to Drill (APD) process will be approved prior to completion of physical oceanographic and biological resource studies currently underway. These studies are scheduled to be completed by December 1985. If this requirement results in delay in approval of APD's, the lease may be suspended in accordance with 30 CFR 250.12(a)(1)(iv) with notification to the lessee by the Regional Manager . The term of the lease will be extended to cover the period of such suspension.

Stipulation 4

This stipulation will be included in leases for blocks within the areas identified below:

Warning Areas/Command Headquarters
Eastern Gulf of Mexico Planning Area

Warning Areas	Command Headquarters
W-151 W-168 W-470 Eglin Water Test Areas 1-5	Commander Armament Division Eglin AFB, Florida
W-155	Naval Air Training Command Training Wing Six Naval Air Station Pensacola, Florida
W-174	Naval Air Training Command Naval Air Station Key West, Florida

(a) Hold Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer

Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the table above.

Notwithstanding any limitation of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) Electromagnetic Emissions

The lessee agrees to control his own electromagnetic emissions and those of its agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the command headquarters listed in the table above to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities, conducted within individual designated warning areas. Necessary monitoring control and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emission shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

(c) Operational

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 of the individual command headquarters listed in the table above, prior to commencing such traffic. Such an agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

(d) Evacuation (This clause will not apply to blocks within W-155 and W-174)

When the activities of the Armament Development and Test Center at Eglin Air Force Base, Florida, may endanger personnel or property, the lessee agrees, upon receipt of a directive from the Secretary, 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 48 hours or within such longer period as may be specified by the directive. Such directive shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than 72 hours; however, such period of time may be extended by a subsequent directive from the Secretary. Equipment and structures may remain in place on the lease during such time as the directive remains in effect.

Stipulation 5

The timing of placement and location of surface structures (rigs and platforms), as well as planned periods of surface structure operation within this area during the exploration stage, are subject to approval by the Regional Manager (RM) after review of the lessee's Plans of Exploration (POE). Prior to approval of the plan, the RM shall consult with the Commander, Armament Division, Eglin Air Force Base, Florida, or the Commanding Officer, Naval Coastal Systems Center, Panama City, Florida, as appropriate to the affected area, to determine plan compatibility with scheduled military operations in the area. Siting of drilling rigs and platforms associated with exploratory drilling may not be approved if such siting will result in interference with scheduled military missions in such a manner as to possibly jeopardize the national defense mission or to pose unacceptable risks to life and property. To promote a predictable and orderly distribution of surface structures throughout the lease area at any one given time, applications to implement approved POE's through the Application for Permit to Drill (APD) process will serve as the basis for approving the location and density of surface structures. Approval of these APD's will be based on maximizing efficient exploration and minimizing conflicts to Department of Defense activities. Approval of some APD's may be delayed as a result of ongoing exploration in the military impact zone. This action may be necessary to provide for location of structures in which exploration can be safely accomplished without interruption to or interference with the national defense missions or the creation of unacceptable risks to life and property. If it is in the interest of national security or defense, operations may be suspended in accordance with 30 CFR 250.12(a)(1)(iii) with notification to the lessee by the RM. The term of the lease will be extended to cover the period of such suspension. It is recognized that the issuance of a lease conveys the right to the lessee, as provided under section 8(b)(4) of the OCS Lands Act, to engage in exploration, development, and production activities pursuant to all other statutory and regulatory requirements.

Stipulation 6

(This stipulation will apply to all blocks offered for lease in this offering.)

(a) Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying of such pipeline is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically reserves the right to

require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Regional Technical Working Group with the participation of Federal, State, and local governments and the industry. All pipelines, including flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storm scouring, and other hazards as determined on a case-by-case basis.

(b) Following the development of sufficient pipeline capacity, no crude oil will be transported by surface vessel from offshore production sites except in the case of emergency. Determination of emergency conditions and appropriate responses to these conditions will be made by the Regional Manager.

(c) Where the three criteria set forth in paragraph (1) of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act, 33 U.S.C. 1221, et. seq., (1980)

14. Information to Bidders and Lessees.

(a) There is available from the Gulf of Mexico OCS Regional Office a set of drawings entitled "Split Blocks - Eastern Gulf of Mexico, Final," depicting the Federal/State boundary, including the acreage on the Federal side of the line. For complete information on any of the subjects mentioned in this notice, including copies of the various documents identified as available from the Gulf of Mexico OCS Regional Office, prospective bidders should contact the Regional Supervisor for Leasing and Environment at the address stated in paragraph 2, either in writing or by phoning (504) 837-4720.

(b) Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et. seq.), as amended. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

(c) 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 in accordance with section 16 of each lease offered, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to

requiring unitization in instances where one or more reservoirs underlie two or more leases with a different royalty rate.

(e) For blocks identified as having lease terms with an initial period of 10 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the Minerals Management Service either an exploration plan, where required, or a general statement of exploration intention prior to the end of the ninth lease year.

(f) Revisions of Department of Labor regulations on affirmative action requirements for government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this offering, section 18 of the lease form (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 regulation requirements will be deemed to be part of the existing affirmative action forms.

(g) The U.S. Air Force has released an indeterminable amount of unexploded ordnance throughout the eastern Gulf of Mexico. The exact location of the unexploded ordnance is unknown, and lessees are advised that all lease blocks in this offering should be considered potentially hazardous to drilling and platform and pipeline placement.

(h) The following blocks will be affected by this clause: NH 16-5, Pensacola, 772-779, 816-825, 860-872, 904-917, 948-962, and 992-1006; NH 16-9, Apalachicola, 221, 265, 309-310, 353-354, 397-398, 441-443, 485-487, and 529-532; and NH 16-8, Destin Dome, 24-38, 68-82, 112-126, 157-170, 201-214, 246-258, 290-302, 335-346, 380-390, 425-434, 470-478, 514-522, 561-566.

The Navy advises that its Naval Coastal Systems Center (NCSC) conducts testing between April and October with peak operating months during the summer. During this period, oil companies may be requested to stand down from activity for 5- to 10-day periods (to a maximum of 15 days), as determined by the NCSC testing scheduled. Companies will be able to operate essentially unrestricted during the November to March time frame.

(i) 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 (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407), and various other State and Federal laws and regulations. On October 22, 1979 (44 FR 60963), Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, there is the Florida Manatee Sanctuary Act of 1978 declaring the entire State of Florida as "refuge and sanctuary for the manatee." A Cooperative Agreement between Interior and Florida on endangered species became effective on June 23, 1976.

15. OCS Orders.

Operations on all leases resulting from this offering will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders and any other applicable OCS Order.

16. 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 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 bid adequacy rules based upon the Mean of the Range of Values (MROV), Discounted Mean of the Range of Values (DMROV), and Geometric Average Evaluation of the Tract (GAEOT) (a tract being a block).

Phase 1

Phase 1 is composed of criteria designed to partition blocks receiving bids into three general categories:

° Those receiving bids which the Minerals Management Service (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.

Based on these categories, the following four Phase 1 criteria are applied to all blocks receiving bids:

1. High bids on all blocks classified by MMS as being either development or drainage will be referred directly for further evaluation in Phase 2.

2. All legal high bids for blocks 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 receiving three or more bids and more than the average number of bids for prospective blocks bid upon in the offering i.e., whichever is more.

1/ Anomalously low bids will not be included in the bid number; e.g., if the lowest bid on a block is less than 1/8 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.

4. After adjusting for anomalously low bids through application of the "one-eighth rule," all legal high bids will be accepted for prospective blocks classified by MMS as wildcat or proven where the geometric average of the bonus bid for the block is in the upper 50th percentile of the geometric average of bonus bids for all prospective wildcat and proven blocks receiving bids in the offering.

Phase 1 will be conducted block-by-block, and is generally completed within 3 days of the Bid Opening.

Phase 2

All prospective wildcat and proven blocks which are not accepted as a result of the application of the Phase 1 criteria and all drainage and development blocks will receive evaluation using the "Monte Carlo Analysis Method" of bid evaluation. This method of simulation analysis provides a means for determining the prelease estimates of value, the MROV and DMROV, which are also used in calculating the GAEOT. The high bids are compared to these three indicators of value. The Regional Manager (RM) can also use other factors in the Phase 2 evaluation. These factors include the reliability of the MMS data used in the analysis and costs attributable to the delays in exploration/development of other blocks on the prospect if the subject block were not to be leased.

After the high bids are compared to the MROV, DMROV, and GAEOT, other factors are considered on a block-by-block basis when certain circumstances are present. These circumstances include instances when a block is subject to additional delay costs related to expeditious exploration/development or drainage, unusual bidding patterns, or an unusual degree of uncertainty regarding MMS data.

When any of these circumstances exist, in the judgment of the Regional Manager, the other factors can be considered. These factors are, as follows:

° Type of block;

° Number of bids received;

° Average number of bids received for blocks of the same type;

° Reliability of MMS data;

° Drainage costs due to delays associated with bid rejection;

° Costs attributable to delays in exploration/development of other blocks located on the same prospect if the subject block is not leased;

° kelative agreement of industry bids;

° Number of companies participating in the bids received for the block;

° Number of bids and bidders participating in bids received for other blocks on the same and other prospects; and

° Number of companies participating in the offering.

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 RM.

The bid adequacy recommendations developed in Phase 2 are generally completed within 3 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 is that which is available through observing the market for leases. The above procedures are designed to make better use of that information.

Acting Director, Minerals Management Service
David C. Russell

Approved:

Secretary of the Interior
William P. Clark

DEC 2 1983
Date

[FR Doc. 83-32583 Filed 12-5-83; 8:45 am]
BILLING CODE 4310-MR-C

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf
Eastern Gulf of Mexico

Notice of Leasing Systems, Lease Offering (January 1984)

Section 8(a)(8)(43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA), as amended, requires that, at least 30 days before any lease offering, a notice be submitted to the Congress and published in the Federal Register:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

1. Bidding systems to be used. In the Outer Continental Shelf (OCS) Eastern Gulf of Mexico Lease Offering (January 1984), blocks will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)): (a) bonus bidding with a fixed 16 2/3-percent royalty on all unleased blocks in less than 400 meters of water; and (b) bonus bidding with a fixed 12 1/2-percent royalty on all remaining unleased blocks.

a. Bonus Bidding with a 16 2/3-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency

payments, but may yield more rewards if a commercial field is discovered. The relatively higher front-end bonus payments will encourage more rapid exploration.

b. Bonus Bidding with a 12 1/2-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. It has been chosen for certain deeper water blocks proposed for the Eastern Gulf of Mexico Lease Offering (January 1984) because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water tracts. The Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high cost areas under a 12 1/2-percent royalty system would be about 8 percent less than for the same blocks under a 16 2/3-percent royalty system. As a result, more blocks may be explored and developed. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary constraints to competition.

2. Designation of Blocks. The selection of blocks to be offered under the two systems was based on the following factors:

a. Lease terms on adjacent, previously leased blocks were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

b. Blocks in deep water were selected for the 12 1/2-percent royalty system based on the favorable performance of this system in these high cost areas as evidenced in our analysis.

The specific blocks to be offered under each system are shown on Map 2 entitled "Eastern Gulf of Mexico Lease Offering, January 1984, Stipulations, Lease Terms, and Bidding Systems, Final." This map is available from the Gulf of Mexico OCS Regional Office, Minerals Management Service, 3301 North Causeway Boulevard, Metairie, Louisiana 70002.

Acting Director, Minerals Management Service
David C. Russell

Approved: DEC 2 1983

Secretary of the Interior
William P. Clark

[FR Doc. 83-32585 Filed 12-5-83; 8:45 am]
BILLING CODE 4310-MR-C

Attachment 2
4310-MR

Department of the Interior
Minerals Management Service

Notice
Insignificant Revision in July 1982 5-Year Outer Continental Shelf Oil and Gas Leasing Schedule
Eastern Gulf of Mexico Lease Offering (November 1983)

AGENCY: Minerals Management Service, Department of the Interior

ACTION: Notice

SUMMARY: The 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Schedule issued on July 21, 1982, provided for an Eastern Gulf of Mexico lease offering to be held in November 1983. However, delays in the prelease administrative steps required that the offering be delayed 2 months to January 1984 to allow for congressional action on the Fiscal Year 1984 Department of the Interior appropriations bill to be reflected in the final Notice of Offering. After considering the relative merits of delaying the offering to January 1984 to allow the final Notice to reflect this congressional action, it has been concluded that delaying the offering serves the national interest.

After analyzing whether delaying the offering by such a short period was a significant revision under section 18 of the OCS Lands Act, we have concluded that it would not be a significant revision of the 5-year program. Copies of this analysis are available from the address below.

FOR FURTHER INFORMATION: Contact Chris Oynes, Minerals Management Service (MS-645), 12203 Sunrise Valley Drive, Reston, Virginia 22092, (202) 343-6906.

NOV 23 1983
Date

Acting Director, Minerals Management Service

2 Dec 83
Date

W. P. PENDLEY
Deputy Assistant Secretary for Energy and Minerals

[FR Doc. 83-32590 Filed 12-5-83; 8:45 am]
BILLING CODE 4310-MR-C

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Tuesday, December 6, 1983

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H.R. 2293/Pub. L. 98-191

Office of Federal Procurement Policy Act Amendments of 1983. (Dec. 1, 1983; 97 Stat. 1325) Price: $2.00

S. 726/Pub. L. 98-192

To amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes. (Dec. 1, 1983; 97 Stat. 1335) Price: $2.00

S. 1046/Pub. L. 98-193

To clarify the applicability of a provision of law regarding risk retention. (Dec. 1, 1983; 97 Stat. 1344) Price: $1.50

S. 2129/Pub. L. 98-194

Rural Health Clinics Act of 1983. (Dec. 1, 1983; 97 Stat. 1345) Price: $1.50

S. 1503/Pub. L. 98-195

To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land in the State of Delaware. (Dec. 1, 1983; 97 Stat. 1349) Price: $1.50

S. 577/Pub. L. 98-196

To provide for the conveyance of certain Federal lands adjacent to Orchard and Lake Shore Drives, Lake Lowell, Boise project, Idaho. (Dec. 1, 1983; 97 Stat. 1352) Price: $1.50

H.J. Res. 405/Pub. L. 98-197

To extend the term of the Presidential Commission for the German-American Tricentennial, and for other purposes. (Dec. 1, 1983; 97 Stat. 1353) Price: $1.50

S.J. Res. 111/Pub. L. 98-198

Expressing the sense of the Congress with respect to international efforts to further a revolution in child health. (Dec. 1, 1983; 97 Stat. 1355) Price: $1.50



Just Released

Code of Federal Regulations

Revised as of July 1, 1983

Quantity	Volume	Price	Amount
_____	Title 32—National Defense (Parts 40 to 189) (Stock No. 022-003-95200-4)	$6.50	$_____
_____	Title 38—Pensions, Bonuses, and Veterans' Relief (Parts 0 to 17) (Stock No. 022-003-95215-2)	7.00	_____
	Title 41—Public Contracts and Property Management		
_____	(Chapter 7) (Stock No. 022-003-95230-6)	5.00	_____
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