12 445-504

4-2-84
Vol. 49 No. 64
Pages 13001-13098

federal register

Monday
April 2, 1984

ITEM-1

Selected Subjects

Administrative Practice and Procedures
Equal Employment Opportunity Commission
Nuclear Regulatory Commission

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Bank Deposit Insurance
Federal Deposit Insurance Corporation

Cable Television
Copyright Office, Library of Congress

Credit Unions
National Credit Union Administration

Crop Insurance
Federal Crop Insurance Corporation

Flood Insurance
Federal Emergency Management Agency

Food Additives
Food and Drug Administration

Milk Marketing Orders
Agricultural Marketing Service

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Savings and Loan Associations
Federal Home Loan Bank Board

CONTINUED INSIDE

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

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

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

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

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

Selected Subjects

Small Businesses
Small Business Administration

Stockyards
Packers and Stockyards Administration

Surface Mining
Surface Mining Reclamation and Enforcement Office

Water Supply
Environmental Protection Agency

Contents

Federal Register
Vol. 49, No. 64
Monday, April 2, 1984

Separate Parts in This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
430..... 13001
1049..... 13002

9 CFR
201..... 13002

10 CFR
Proposed Rules:
2 (2 documents)...13043, 13044
50..... 13044

12 CFR
330..... 13003
561..... 13003
563..... 13012
564..... 13003
Proposed Rules:
701..... 13048

13CFR
Proposed Rules:
121..... 13052

14 CFR
39 (3 documents)..... 13014, 13015, 13016
Proposed Rules:
39 (4 documents)..... 13054, 13055, 13057, 13058

21 CFR
173..... 13016
175..... 13018
176..... 13021
178..... 13018

29 CFR
1601..... 13023
1610..... 13023
1611..... 13023
1626..... 13023

30 CFR
947..... 13025

37 CFR
201..... 13029

40 CFR
52..... 13038
81..... 13039
145..... 13040
Proposed Rules:
50..... 13059
60..... 13059

44 CFR
64..... 13041

Rules and Regulations

Federal Register
Vol. 49, No. 64
Monday, April 2, 1984

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 430

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This action makes final a revision and reissuance of the Sugar Beet Crop Insurance Regulations, effective for the 1983 and succeeding crop years. The revision and reissuance of the regulations was implemented by the Federal Crop Insurance Corporation (FCIC) on an interim basis to allow insureds sufficient time to consider changes in the regulations for insuring sugar beets. The intended effect of this action is to confirm the interim rule.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: On Friday, November 5, 1982, FCIC published an interim rule in the **Federal Register** at 47 FR 50188, revising and reissuing the Sugar Beet Crop Insurance Regulations (7 CFR Part 430), effective for the 1983 and succeeding crop years in order to provide sufficient time for insureds to consider changes in the regulations for insuring sugar beets. Under the regulations, any amendments must be placed on file in the service office by a date 15 days prior to the cancellation date in order to be effective for the crop year. It was determined that there would not have been sufficient time to allow insureds to consider such changes and still comply with the regulations with respect to placing the changes on file 15 days prior to the cancellation date. Notification of changes for the 1983 crop year were sent on June 25, 1982, to all current insureds in Arizona and California, where the cancellation date is July 15, thus constituting notice as required by 7 CFR 430.7.

The public was given 60 days after publication of the interim rule in which to submit comments, data, and opinions on the rule and the rule was scheduled for review in order to provide for any amendments made necessary by such public comment, but no comments were received.

In reviewing this rule prior to issuance as a final rule, it was determined that the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations would be included for the purpose of codification as required by OMB, and that the level at which the Manager, FCIC, is authorized to take action to grant relief in cases of good faith reliance on misrepresentation be changed from $20,000 to $100,000 as approved by the Board of Directors of FCIC. These changes relate to internal agency practice and procedure and are therefore exempt from the notice and comment provisions of the Administrative Procedure Act.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512–1 (December 15, 1983). This action does not constitute a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is November 1, 1987.

List of Subjects in 7 CFR Part 430

Crop insurance, Sugar beets.

Final Rule

PART 430—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Interim Rule, revising and reissuing the Sugar Beet Crop Insurance Regulations as published at 47 FR 50189 on Friday, November 5, 1982, as amended in the following instances, is hereby adopted as final:

1. 7 CFR 430.3 is added to read as follows:

§ 430.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 430) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

2. 7 CFR 430.5(b) is revised to read as follows:

§ 430.5 Good faith reliance on misrepresentation.

* * * * *

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's

entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

Done in Washington, D.C., on February 23, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: March 23, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-8695 Filed 3-30-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1049

Milk in the Indiana Marketing Area; Order Terminating Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of rules.

SUMMARY: This action terminates the seasonal incentive producer payment plan ("Louisville" plan) that was designed to encourage level milk production by dairy farmers throughout the year for the Indiana milk order. Hoosier Milk Marketing Agency, Inc., a federation of cooperative associations representing a large number of the producers who supply milk for the market, proposed the suspension of the provisions until December 1985. The comments received in response to a Notice of Proposed Suspension indicate that the plan no longer serves its intended purpose, a situation that likely will not change with the passage of time. Accordingly, termination of the provisions is more appropriate and is needed to maintain an appropriate alignment of producer prices with neighboring markets.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S., Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension/ Termination: Issued February 16, 1984; published February 23, 1984 (49 FR 6499).

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. Such action will lessen the regulatory impact of the order on dairy farmers and will not affect milk handlers.

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Indiana marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on February 22, 1984 (FR 6499) concerning a proposed suspension/termination of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon by March 8, 1984. Two comments were filed in favor of suspending the specified provisions.

After consideration of all relevant information, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that the following provisions of the order no longer tend to effectuate the declared policy of the Act:

1. In § 1049.61, paragraph (f), the words "For the months of January through March and August," and all of paragraphs (g) through (l).

2. In § 1049.75(a), the words ", and , for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to § 1049.61(i)".

Statement of Consideration

This action removes from the Indiana order the provisions that contain the seasonal producer payment plan, commonly known as the "Louisville plan." Under those provisions, 20 cents per hundredweight of producer milk is deducted from the pooled value of milk in computing the uniform prices to producers during the months of April through July. The monies withheld plus accrued interest are added to the pooled funds in computing the uniform prices to producers for each month of September through December. This payment plan is intended to encourage relatively level milk production throughout the year.

Suspension of the Louisville plan for April 1984 through December 1985 was requested by Hoosier Milk Marketing Agency, Inc., a federation of cooperative associations representing more than two-thirds of the producers supplying the market. In the notice of proposed action, it was noted that the Louisville plan had been suspended from operation in 1983 in the Indiana order. The suspension last year and the proposed supension for two years raised a question whether the plan should be terminated. Interested parties were invited to comment whether the Louisville plan was accomplishing its intended purpose and whether it should be terminated.

This action is needed because the Louisville plan is no longer an adequate stimulus toward leveling out production. The 20 cents per hundredweight deduction represents less than two percent of the uniform price paid to producers by handlers regulated by the Indiana order. The amount of the deduction is too low to effectively encourage the desired adjustment to level production.

This action also is needed to maintain the alignment of producer pay prices with adjoining markets. The Louisville plan under the neighboring Louisville-Lexington-Evansville order was replaced with a seasonal base and excess payment plan in 1983. The Louisville plan under the adjoining Ohio Valley order was terminated on February 29, 1984. Producers shipping to handlers regulated by the Indiana, Louisville-Lexington-Evansville, and Ohio Valley orders are intermingled in some areas. Unless the Louisville plan is suspended or terminated in Indiana, a misalignment of pay prices among the three orders could result in disorderly marketing as producers change markets for temporary gains. These problems with current provisions will not be corrected merely with the passage of time.

The termination action, taken herein, is more appropriate than the suspension action requested by the proponent federation of cooperatives. The proponents had requested the Louisville plan be suspended from April 1984 through December 1985. The reasons offered for suspending the provisions are expected to continue through 1985 and beyond. Under a suspension, the provisions would have been inoperative for a period of three years. Accordingly, the more appropriate action is to terminate the Louisville plan provisions at this time. If the Indiana dairy industry would desire to implement another seasonal incentive producer payment plan after 1985, sufficient time is available to consider such a plan through an amendatory proceeding.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The termination is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that the program no longer achieves its intended purpose.

(b) Termination of the provisions does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for terminating the aforesaid provisions of the Indiana order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1049

Milk marketing orders, Milk, Dairy products.

It is Therefore Ordered

§ 1049.61 [Amended]

PART 1049—[AMENDED]

1. In § 1049.61, paragraph (f), the words "For the months of January through March and August," and all of paragraphs (g) through (l).

§ 1049.75 [Amended]

2. In § 1049.75(a), the words ", and, for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to § 1049.61(i)".

Effective date: April 2, 1984.

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

Signed at Washington, D.C., on March 27, 1984.

John E. Ford,

Deputy Assistant Secretary for marketing and Inspection Services.

[FR Doc. 84–8676 Filed 3–30–84; 8:45 am]

BILLING CODE 3410–02–M

Packers and Stockyards Administration

9 CFR Part 201

Regulations and Policy Statements; Clarification

AGENCY: Packers and Stockyards Administration, Agriculture.

ACTION: Final rule; clarification.

SUMMARY: This document clarifies the last sentence of paragraph (e) of regulation 201.56, which was published on February 17, 1984 (49 FR 6080), to make the language clear pertaining to disclosure of the relationship a buyer has with the market agency selling consigned livestock.

EFFECTIVE DATE: March 19, 1984.

FOR FURTHER INFORMATION CONTACT: Harold W. Davis, Director, Livestock Marketing Division, (202) 447–6951.

SUPPLEMENTARY INFORMATION: It has come to the attention of the Agency, subsequent to promulgation of paragraph (e) of regulation 201.56, that it is interpreted as incresing regulatory requirements concerning disclosure. The Packers and Stockyards Administration clarifies paragraph (e) of regulation 201.56, as it pertains to the disclosure of the relationship of a buyer to the market agency, at the time of sale, when the buyer is an owner, officer, agent or employee of the market agency selling consigned livestock. It was not the intention of the Administration to require disclosure of this relationship at the time of sale. Accordingly, the requirement of disclosure, at the time of sale, of a buyer's relationship to the market agency is deleted, but the requirement that such buyer's name be disclosed at the time of sale continues in effect. The requirement of full disclosure on the account of sale, including disclosure of the buyer's relationship with the market agency, is retained.

List of Subjects in 9 CFR Part 201

Reporting and recordkeeping requirements, Stockyards, Surety bonds, Trade practices.

Authority: 7 U.S.C. 228.

Done at Washington, D.C. this 28th day of March 1984.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

PART 201—[AMENDED]

Accordingly, the Packers and Stockyards Administration is clarifying 9 CFR 201.56(e), as revised paragraph (e) reads as follows:

§ 201.56 Market agencies selling on commission; purchases from consignment.

* * * * *

(e) Purchase from consignments; disclosure required. When a market agency purchases livestock consigned to it for sale to fill orders or to support the market, or sells consigned livestock to any owner, officer, agent, employee, or any person in whose business such market agency, owner, officer, agent, or employee has an ownership or financial interest, the market agency shall disclose the name of the buyer and the nature of the relationship existing between the market agency and the buyer. Such disclosure shall be made on the account of sale and the name of the buyer shall be publicly announced at the time of sale.

[FR Doc. 84–8675 Filed 3–30–84; 8:45 am]

BILLING CODE 3410–KD–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 564

Brokered Deposits; Limitations on Deposit Insurance

Dated: March 26, 1984.

AGENCIES: Federal Deposit Insurance Corporation and Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") and the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), have adopted final regulations on deposits brokered by third parties into institutions whose accounts are insured by the FDIC or FSLIC ("insured institutions"). The regulations are intended to address the concern of the two Agencies with the problems arising from brokered funds, particularly in view of the recent decontrol of interest rates paid on deposits by insured institutions. As adopted, the regulations limit insurance coverage afforded to deposits placed with insured institutions by brokers engaged in the business of placing deposits, with certain specified exemptions.

EFFECTIVE DATE: October 1, 1984, with certain exceptions described in sections to be codified at 12 CFR 330.13 and 564.12.

FOR FURTHER INFORMATION CONTACT: Joseph A. DiNuzzo, Senior Attorney, Federal Deposit Insurance Corporation, Legal Division, (202) 389–4171, Room 4126B, 550 17th Street, N.W., Washington, D.C. 20429, or Christopher P. Bolle, Law Clerk, (202) 377–7057, or Robert S. Monheit, (202) 377–6465, Attorney, Federal Home Loan Bank Board, Office of General Counsel, 1700 G. Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1983, the FDIC and the Board ("Agencies") issued an Advance Notice of Proposed

Rulemaking, soliciting comments on the brokering of deposits of institutions whose accounts are insured by the FDIC or FSLIC ("insured institutions"). 48 FR 50399 (1983). The Advance Notice set forth the concerns shared by the FDIC and the Board about deposit brokerage, principally the swift receipt of large volumes of funds by insured institutions from outside their natural market areas irrespective of the institutions' managerial and financial soundness, and the increased costs to the FDIC and the FSLIC in the form of either greater insurance payments or higher assistance expenditures if the institutions are subsequently closed or merged because of insolvency. The Advance Notice posed a series of questions to the public concerning those issues and the possible means of dealing with them.

In January 1984, after reviewing the information received pursuant to the Advance Notice and other relevant data, the FDIC and the Board proposed amendments to their respective regulations governing the insurance coverage to be afforded deposits placed by or through brokers with insured institutions. 49 FR 2787 (1984). The proposal was designed to limit the insurance coverage on deposits placed by or through deposit brokers to $100,000 per insured institution per deposit broker. The term "deposit broker" was defined as any person or entity, other than an insured institution or its employee, engaged in the business of placing or listing for placement deposits of insured institutions. The proposal also limited insurance for deposit accounts established by a trustee or agent pursuant to an agreement to fund a prearranged loan. After careful consideration of the comments received and further analysis of other available information, the Agencies have decided to adopt the proposed amendments, with the modifications discussed below.

Overview of Comments Received

The FDIC received 3,498 comments on the proposed rule. The majority of these comments (2,823) were from individuals, with 281 from banks, 105 from savings and loan associations, 70 from brokers and other financial intermediaries, and 92 from credit unions. The other comments received were submitted by government agencies, local public units, Members of Congress, law firms, private businesses and trade associations.

The Board received 3,403 comments on the proposed rule, 2,776 of which were from individuals, 264 from savings institutions, 41 from commercial banks, and 104 from credit unions. Brokers and other financial intermediaries submitted 23 comments, and 195 letters were received from other entities, including government agencies, Members of Congress, law firms, trade associations and private businesses.

Virtually all the individuals who commented on the proposal identified themselves as customers of deposit brokers and opposed the rule, citing convenience, competitive rates and maturities, and liquidity of brokered funds. A small minority of individuals who commented favored the proposal, noting the negative economic implications of the abuses connected with brokered deposits. Credit union commenters, also identified as deposit brokerage customers, opposed the rule for similar reasons, noting that credit unions do not generally have the resources to place funds themselves in a cost-effective manner.

A slight majority of the banks that expressed an overall opinion about the proposal opposed it on the grounds of cost-effectiveness and the access to national markets provided by brokers. They recommended further supervisory action regarding the use of brokered funds. Banks favoring the proposal asserted that deposit brokerage increases an institution's cost of funds and could increase insurance premiums for all FDIC-insured banks, and causes funds to flow from local communities. The American Bankers Association and the Independent Bankers Association of America (the two major bank trade associations) supported the proposal.

One out of every twelve savings institutions (or 264 out of approximately 3,200 savings institutions) submitted individual comments. A slight majority of comments from individual savings institutions opposed implementation of the regulation as proposed, offering various approaches to ameliorate the problems addressed. Comments in opposition emphasized cost-effectiveness, competition and establishment of a national market, and the use of brokered funds for maturity matching. The National Council of Savings Institutions and the Texas Savings and Loan League also opposed the proposal. Thrifts favoring the rule referred to higher deposit liability costs to all institutions, resulting in higher borrowing costs; their major concern, however, is increased exposure of the deposit insurance funds and resulting increases in insurance premiums. The U.S. League of Savings Associations also favored the rule because of the threat brokered funds pose to the Insurance Fund. All but one of the state savings leagues which commented expressed general support for the proposed rule, although some suggested various modifications. These included the California League of Savings Institutions (California institutions hold sixty-three percent of all brokered deposits in the thrift industry), the New Hampshire Co-operative Savings and Loan League, the New York League of Savings Institutions, the New Jersey Savings League, the Ohio Savings and Loan League, the Florida League of Financial Institutions, the Pennsylvania Association of Savings Institutions, and the West Virginia League of Savings Institutions.

Deposit brokers and other financial intermediaries opposed the rule, which they argued was unfairly directed at them rather than at problems of institution mismanagement. These commenters warned of disruption in the secondary market for certificates of deposit with a consequent detrimental effect on individual investors and small and medium-sized institutions, and discrimination in favor of large institutions with the capacity to reach a national customer base. They recommended restricting the application of the rule to funds of "institutional" investors and funds invested in weak institutions, registration of deposit brokers with the Securities and Exchange Commission, and higher insurance premium assessments for institutions engaged in riskier activities.

Thirty-seven members of the United States Congress commented on the proposal; they acknowledged the negative aspects of deposit brokerage but requested that the Agencies defer action until Congress has had the opportunity to act on the matter. The Comptroller of the Currency criticized the proposal and recommended that the Agencies utilize a supervisory approach to the problems engendered by deposit brokerage; he suggested a limitation of $100,000 on the insurance coverage any single depositor could obtain on funds placed through any one broker, irrespective of the number of insured institutions involved. The Antitrust Division of the United States Department of Justice expressed the view that the proposal would cause competitive harm and recommended a more limited approach to the problem. The Comptroller and the Antitrust Division, as well as some other commenters, questioned the statutory authority supporting the restriction on deposit insurance coverage and the effectiveness and enforceability of the proposed approach.

Discussion of Issues Raised by Commenters

Statutory Authority

Several commenters expressed the view that the proposed rule would exceed express statutory authority regarding insurance coverage. They asserted a conflict between the proposal and the Congressional objective of protecting investors by insuring all deposits up to an aggregate amount per investor, pointing out that the federal deposit insurance system was intended to safeguard the savings of depositors, increase depositor confidence in financial institutions and promote economic growth through increased availability of credit.

Those commenters favoring the proposed approach frequently asserted that deposit brokerage has resulted in the misuse and exploitation of the deposit insurance funds. They noted that the legislative purpose in creating the federal deposit insurance system was to guarantee the safety of consumers' savings and not to maximize the investment yields of large investors. These commenters believe that deposit brokerage is unjustified and hazardous to the federal deposit insurance system.

The FDIC and the Board agree that insured deposit brokerage is inconsistent with the fundamental and overriding purposes which were meant to be served by the federal deposit insurance system. Deposit insurance was originally intended to establish stability and to promote confidence in the monetary and banking systems by protecting primarily small, relatively unsophisticated depositors in their relationships with banks and savings associations. It was not intended to protect investors seeking the highest yields available in money markets.

With regard to specific statutory authority, the Agencies note that they are clearly empowered to promulgate an insurance-limitation rule pursuant to provisions of the Federal Deposit Insurance Act (12 U.S.C. 1811–1832) and Title IV of the National Housing Act (12 U.S.C. 1724 *et seq.*) which expressly authorize the promulgation of "legislative" rules clarifying, defining, and limiting the insurance coverage provided, and the promulgation of rules proscribing unsafe or unsound practices. The FDIC and the Board have carefully observed explicit statutory limitations in this area (and, for example, have excluded certain IRA and Keogh accounts from coverage under this rule).

Cost of Funds to Insured Institutions

Insured institutions opposing restrictions to deposit brokerage activities frequently cited substantial savings realizable by obtaining deposits through brokers, and suggested that such cost savings could be passed along to the public. Many commenters view such funds as an inexpensive alternative to direct solicitation, especially for smaller institutions lacking extensive branch networks, and argued that only money-center banks would be capable of attracting lower-cost funds outside the local area.

Financial institution commenters supporting the proposal expressed alarm at the prospect of being subjected to the vagaries of the marketplace through heavy dependence on brokered deposits. Because brokered funds are typically generated outside of the depository institution's retail deposit base, the institution is forced to pay the highest national market rates to attract these funds, leading ultimately to increased costs for all institutions operating in the same retail deposit area. In the view of these commenters, the proposal would eliminate the deposit brokers' retailing of certificates of deposit to the highest bidder and would return the deposits to their deposit base—the local community—thus containing the cost of raising funds through retail deposits.

The Agencies note that opinion was divided as the the actual effect of the use of brokers on an insured institution's cost of funds. Those who alleged that brokered deposits are less expensive often offered a branch network as the alternative, and did not consider the relative costs of raising funds through other low overhead means such as direct solicitation, advertising and deposit-listing services, none of which would be affected by the new rule.

Investor Convenience

Individual commenters generally praised the convenience of placing deposits in insured institutions through investment brokers. Many commenters stated that use of these third-party intermediaries provided small investors with access to national markets, permitting wider choices of deposit instruments, interest rates and maturities formerly available only to large investors. Commenters also cited the liquidity of brokered CDs facilitated by the active secondary market in these instruments.

The Agencies understand the desire of individual investors to use the most convenient method of obtaining high protected yields. The FDIC, however, does not agree that deposit insurance was ever intended to facilitate shopping by investors for the highest yields available in national money markets, irrespective of the credit-worthiness of the borrowing institutions. The Board concurs, and finds that limiting insurance of deposits placed through brokers is not necessarily detrimental to the investor's goal; deposit-listing services, for example, may offer a wider choice than a broker who merely recommends a particular depository. Furthermore, it does not appear unreasonable that investors should choose between accepting a broker's judgment as to the safety of an uninsured investment and doing minimal research to find an insured investment. An investor who believes that only a broker can offer the convenience needed may continue to use such a service, but full deposit insurance will not be provided to that investor.

Capital Markets

Redistribution of funds from "capital rich" to "capital poor" markets was frequently mentioned as a desirable by-product of deposit brokerage. Commenters suggested that this redistribution provided funds for housing and other lending needs in many areas of the country. In addition, many institutions viewed brokered CDs as valuable tools in balancing their assets and liabilities. Several commenters suggested that the prudent use of brokered funds could assist struggling institutions in restructuring their operations, ultimately saving the Insurance Funds from costly assisted mergers or liquidations.

The Agencies have seen no evidence that brokered funds move capital from one area to another in ways that are uniquely helpful to the financial institutions involved or to their depositors and borrowers. Rather, it appears that brokered funds move to the institutions willing to pay the highest rate, wherever located. Other mechanisms can be used to aid institutions in cash-poor areas in raising capital, such as the inter-bank market, advertisements, stock or debt sales, and secondary market activity in loans. In the view of the Board and the FDIC, there is not compelling reason to permit continued brokering of insured deposits to meet these needs when there are other less objectionable means available. Moreover, one comment, indicating that without brokered funds the commenting institution could not even meet its current obligations to pay interest on outstanding instruments, illustrated precisely the kind of dangerous "capital movement" practice the rule is intended to curb. Funds flows should be based on the creditworthiness

of the borrowing institution, not simply the rate of interest paid on a federally guaranteed instrument.

Appropriateness of Mechanism Based on Supervisory Concerns

The FDIC and the Board have reviewed their data on banks and savings associations which are involved with deposit brokerage. Indications are that, although brokered deposits at the present time comprise a modest percentage of total domestic deposits, a significantly greater proportion of poorly-rated institutions use brokered deposits than highly-rated institutions. The 77 commercial banks that failed in 1982 and 1983 had substantial brokered deposits, constituting, on the average, 16 percent of total deposits. In three instances, brokered deposits equalled more than 60 percent of the failed bank's total deposits. In 19 other cases, these deposits equalled between 20 and 50 percent of the failed bank's deposits. As of mid-March 1984, 13 commercial banks had failed in 1984; seven of these held brokered deposits ranging as high as 53 percent of total deposits.

In savings associations insured by the FSLIC, brokered deposits totaled approximately $3 billion in January, 1982, and had increased tenfold to almost $30 billion by December, 1983. Moreover, there has been a significant correlation between associations which use brokered deposits and those which have supervisory problems. In 1982 and 1983, more than half of the insured institutions that were closed by the FSLIC had brokered funds in excess of one-third of their deposits. Almost half of the institutions with a net worth below acceptable levels have brokered deposits in excess of 20 percent of their total deposits. For example, in one case, an institution had $240 million in brokered deposits, representing 90 percent of its deposit base. Another problem association used brokered deposits to increase its assets by over 2,500 percent, with brokered deposits representing 70 percent of its total liabilities. In 1983, only 670 of the approximately 3,200 FSLIC-member institutions reported any use of brokered deposits. The use of brokered deposits is even more highly concentrated than that figure indicates: 94 percent of all brokered deposits are concentrated in the 369 FSLIC-insured institutions (approximately one-tenth of the industry) that hold brokered deposits in excess of 5 percent of total deposits, and of these, 145 are troubled institutions. The FDIC and the Board are continuing to collect information on deposit brokerage and, as discussed below, are monitoring the use of brokered funds by problem institutions.

Commenters have questioned these figures by suggesting that a large portion of the brokered funds of recently failed banks and thrifts are in fact uninsured deposits of institutional investors. Cases handled recently indicate that quite the opposite is true, and suggest that, since the occurrence of several highly publicized depository institution failures, the great majority of investors have sought full insurance coverage of deposits.

In addition to their concern about the effects of deposit brokerage on already troubled institutions, the FDIC and the Board are concerned about the potential which exists for the abuse of brokered funds by insured institutions generally. There are a number of reasons why currently sound institutions might succumb to the opportunity to swiftly and dramatically increase their deposit size through massive infusions of brokered funds. These funds, which are often received in large amounts at high cost, must be invested quickly for purposes of economic efficiency. The Agencies' experience has shown that the speed required may not allow for the usual care to be taken in appraisals and credit checks relative to investments. Moreover, the need to offer a high rate of return to attract brokered funds may require institutions to take greater investment risks, a factor often aggravated where the broker or associated parties suggest or stipulate particular uses for the funds. Healthy institutions may become problem cases very quickly through a very few transactions of this sort. One institution, for example, used brokered deposits to quadruple its asset size in a year. Although this institution was healthy at the outset of the year, the brokered funds were used to invest in highly speculative commercial loans at a pace that precluded the association from using adequate underwriting procedures, so that it is now a problem for the FSLIC. In another transaction, brokered funds were deployed to fund transactions where the value of security properties were artificially inflated to levels bearing no resemblance to real value as security for loans.

Although only a small percentage of institutions currently engage in the brokered deposits market, the Board believes the expanded use of such funds could have a significant effect on the entire insured depository industry. If brokered deposits grew into a dominant source of funds, it is possible that high national market rates would become a "floor" even in remote areas, and therefore, as a commenter observed, raise the cost of home loans and other consumer borrowing, or force institutions into making more speculative investments in order to cover the cost of funds. In addition to increasing the cost of money, such a situation also could result in a standardization of terms and the imposition of minimum amounts of deposits.

The Board also in concerned that the continued use of brokered funds could, through the use of nationwide brokers, draw institutions away from direct contact with their local communities and that the "local nexus" could be lost. Particularly troublesome is the possibility that, if institutions rely heavily on brokered funds rather than the local savings base, they will feel less need to respond to the housing and credit needs of their local communities.

Several commenters suggested that the Agencies adopt a differential approach to the treatment of brokered funds. It was suggested that the funds be divided into uninsured accounts, insured individual accounts and insured institutional accounts. Only the latter would be regulated, since commenters asserted that these accounts represented the greatest risk to the Insurance Funds because they frequently are placed by brokers not registered with the SEC and do not receive the prudent analysis of risk enjoyed by insured individual depositors.

This approach is discussed in more detail in the section describing alternatives considered. In brief, however, the Agencies see no reason to differentiate between these two types of deposit: Both sources of funds are placed by brokers and result in large sums moving rapidly among institutions.

A number of commenters questioned the enforceability and effectiveness of the proposed approach. They expressed the belief that weak institutions could easily circumvent the proposed restrictions by advertising directly in nationally circulated newspapers or merely by bringing the brokerage function in-house. Further, the use of brokers could be concealed from deposit insurers, encouraging troubled institutions to use subterfuge as to the origin of deposits. Finally, these commenters noted that neither the Agencies nor the depository institution could easily distinguish between brokered deposits placed by individuals directly (although on the advice of a deposit-listing service) and other more readily ascertainable types of brokered deposits, thus making enforcement even more difficult.

The FDIC and the Board believe that institutions will comply with the final rule, and that attempts at evasion would be discovered in the course of regularly scheduled examinations through detection of account patterns. In addition, institutions probably would be unwilling to participate in such arrangements because of the uncertainty of ultimate insurability. Finally, the Agencies do not believe brokers would participate in such activities because the potential discovery of evasion could result in significant broker liability.

Consideration of Alternative Approaches

Many commenters suggested alternatives to the approach taken by the proposed regulation.

1. Focus on Institutional accounts. Several commenters recommended that a distinction be made between institutional and individual investors, and insured and uninsured brokered funds. They allege that insured institutional deposits, comprising less than 10 percent of the market, in which deposits are broken into $100,000 lots to achieve full insurance coverage, pose the most risk to the Insurance Funds because they generally are short-term and are largely placed by unregulated money brokers without the benefit of credit analysis.

The FDIC and the Board believe that this approach would not accomplish their objectives, and would not address many of the problems inherent in brokered funds. Even if the characterization of institutional insured brokered deposits is accurate, it does not argue strongly for a different approach; an account with a longer maturity does not carry the imminent threat of nonrenewal, but is nonetheless subject to the same reinvestment problems as a shorter-term account. Furthermore, the Agencies have not been presented with convincing evidence that there are significant differences between brokers of institutional funds and brokers of individuals' deposits; there are brokers of institutional funds who are registered, use credit analysis, and carefully select insured banks and thrifts for their clients, while brokers for individual investors have not been immune from placing deposits in troubled institutions. Assuming that a difference does exist, a rule allowing continued insurance of individual investors would merely invite institutional brokers to enter the individual investor market and to continue their allegedly inadequate practices. Moreover, the growth of the money market mutual fund industry indicates that insured third-party deposit brokerage, even if limited to the deposits of individuals, would continue to proliferate and present problems similar to those presented today.

2. Focus on Troubled Institutions Only. Commenters suggested limiting application of the regulation to institutions which fall below required levels of net worth or pose other supervisory problems.

The FDIC and the Board already have taken certain actions in this area and are proposing additional steps. The FDIC currently requires all of its regulated institutions subject to an enforcement action or party to a memorandum of understanding with the FDIC to notify the FDIC before the institution's proportion of brokered deposits to total deposits exceeds five percent. The Board has issued a supervisory directive, dated October 26, 1983, requiring any insured institution failing to meet its regulatory net-worth requirement to give ten days' notice prior to increasing its use of brokered funds to a level above five percent of total deposits, along with information indicating the sources and expected uses of the funds. In addition, the Board today is adopting a temporary regulation limiting to five percent of assets the amount of brokered deposits that may be taken in by an institution with net worth below a certain level; that regulation is intended to prevent unsafe practices by thinly-capitalized institutions which might seek to increase unreasonably their levels of insured brokered deposits prior to the October 1 effective date of the regulation set forth in this Resolution.

However, focusing only on the access of particularly vulnerable banks and thrifts to brokered funds would not prevent abuse by such institutions that were not of supervisory concern prior to their last examination, nor would it effectively protect the FDIC and the FSLIC from increased liabilities stemming from the actions of desperate bank or thrift managers willing to violate regulations in a gamble to use brokered deposits to stave off failure. In one case, a State-chartered, FSLIC-insured thrift institution raised over $40 million in brokered deposits in two days and used these funds to finance a transaction in direct violation of a State cease-and-desist order; while the State regulatory authority may take disciplinary action against the management of that institution, the cost to the FSLIC to resolve the case will nonetheless increase significantly.

The insurance-limitation rule will be "self-implementing" and thus very effective, without imposing substantial regulatory or reporting requirements, and it will encourage the market to discipline investors and recipients of brokered deposits. The rule also reduces the risk to the FDIC and the FSLIC from potential increased liabilities incurred by mangement in supervisory situations.

3. Limit Deposit Growth. Other comments suggested that limitations be placed on the rate of all deposit growth of institutions, based upon varying percentages of net worth, assets, liabilities or other determinants.

The FDIC and the Board find the suggestions to limit or monitor the deposit growth of all insured banks and thrifts to be a more burdensome regulatory approach. The FDIC believes that it is not apparent how any particular limit could be arrived at or supported. Moreover, any limit, such as 15 percent of deposits, which has been suggested by some, would be excessive for poorly operated institutions and unduly restrictive for institutions with strong management and financial ratios. The insurance-limitation approach allows each institution to utilize brokered funds to the extent it can attract them based on its own creditworthiness. The Board concurs, and notes that a rule effectively limiting but not over-regulating deposit growth could be quite complex; such an approach could impose significant regulatory burdens on types of growth that occur more slowly and therefore are of less regulatory concern than the use of brokered funds.

4. Registration of Brokers. A significant number of commenters recommended that all deposit brokers be required to register with the Securities and Exchange Commission ("SEC").

The Agencies find that requiring registration of brokers with the SEC would be a meaningless exercise so long as their customers' deposits were fully insured by the FDIC or the FSLIC, because there would be no market discipline in the placement of deposits. In this connection, the Agencies have found that SEC-registered brokers have not been immune from placing brokered deposits into troubled banks and thrifts; registering additional brokers will not provide additional assurances. Further, SEC registration requirements would not protect the FDIC or FSLIC funds, because they are not oriented toward the safety and soundness of insured institutions or the deposit insurance funds.

5. Variable-rate Insurance Premiums. A number of commenters recommended that deposit insurance premiums either be increased or varied to reflect the

increased risk factor created by deposit brokerage. The FDIC believes risk-related deposit insurance premiums should be implemented and has requested Congress to enact enabling legislation. Risk-related premiums, however, would not be a panacea. Assessment of higher premiums might discourage the acquisition of troubled banks or thrifts, or increase the amount of federal financial assistance required in connection with supervisory solutions for such institutions. A variable insurance premium, even if authorized, would not necessarily solve the problems addressed by the final rule. Such a premium structure, if based upon the level of brokered funds, could also invite circumvention through manipulation of brokered-deposit levels during phases of reporting periods. Consistent with the goals of deregulation, the insurance-limitation rule will act to deter investors from placing deposits in what the *market* determines to be high-risk institutions, rather than trying to deter such institutions from making investments that the *regulators* believe are high-risk. Lastly, the variable-premium suggestion erroneously assumes that the Congress intended insured banks and thrifts to pay higher premiums in order to permit deposit brokers to continue to profit through the marketing of FDIC- or FSLIC-insured products.

6. Increased Supervisory Efforts. A substantial number of commenters recommended increased examinations, reporting requirements and other forms of supervision to regulate the investment practices of institutions utilizing brokered funds. These alternatives could be applied to all institutions, or only to those experiencing net-worth deficiencies or other supervisory problems, or could be tied to a scale depending on the institution's rating, net worth, capital, or any other measure of economic viability. The Agencies have considered these alternatives, but believe that they would require constant monitoring, and would only serve to increase the regulatory burden on depository institutions and supervisory role of the Agencies. This is contrary to the spirit of deregulation and would necessitate an increase in the staff and costs of the Agencies, while doing little to protect the Insurance Funds from institutions unconcerned with the consequences of regulatory violation. Also, the ability of institutions to raise millions of dollars in brokered funds in a very short period would render ineffective any provision for additional monitoring or reporting, because the damage would already have been incurred.

7. Prohibition or Limitation on Receipt of Brokered Funds. The Agencies also considered a blanket prohibition on the use of brokered deposits, but rejected it because it would totally eliminate the benefits to insured institutions of brokered deposits. A stringent limitation would have much the same effect, and a generous percentage would allow continuation of current abuses. Limiting the insurance coverage of brokered deposits, on the other hand, will not defeat the liquidity benefits of brokered deposits for well-run institutions. Such deposits will still be obtainable, but without the insurance guaranty. Investment decisions will have to be made on the basis of analysis of the strength or weakness of the involved depository institution, and not on the insurance feature of the deposit. Inasmuch as a number of deposit-broker comments have indicated that this process has already been established for their individual investor depositors, the new rule should not prove unduly burdensome.

After careful consideration of all of the alternatives, the FDIC and the Board have found the insurance-limitation approach to be the most effective method for addressing the problems presented by the growth of brokered deposits in a deregulated environment. Further, the final rule achieves the Agencies' intended purposes by using market discipline rather than by imposing burdensome regulatory and reporting requirements. The alternatives suggested are, in contrast, ineffective and/or overly burdensome, and all assume that the Congress intended deposit brokers to benefit through the marketing of FDIC- or FSLIC-insured products without being directly subject to regulations intended to ensure the soundness of the Insurance Funds.

Explanation of the Rule

The Definition of Deposit Broker

Many commenters suggested modifications to the definition of the term "deposit broker" contained in the proposal. Most recommended exemptions of certain groups from the definition, such as beneficial owners of IRA, Keogh and qualified pension and profit-sharing plans and part-time investment advisers/agents, typically affiliated with small, community-based depository institutions. Other commenters urged a broader definition to encompass persons or entities, such as real estate and insurance agents, who solicit deposits generally for insured depository institutions lacking extensive branch networks. Other commenters, responding to a question posed in the proposal, recommended inclusion of insured institution subsidiary/joint ventures within the scope of the definition of deposit broker.

The final rule limits the insurance coverage of funds placed by or through a "deposit broker" to $100,000 per broker per insured institution. This differs from the current FDIC and Board regulations which, if certain requirements are met, deem the customer of the deposit broker to be the "depositor" or "member." "Deposit broker" is defined as any person or entity engaged in the business of placing deposits for others, or of placing funds in accounts to be sold to others, and an agent or trustee who establishes a deposit or member account in connection with an agreement with the institution to use the proceeds in the account to fund a prearranged loan.

The definition of "deposit broker" includes not only deposit brokerage arrangements where the broker is the holder of an account for a number of principals, but also where the broker directs or otherwise facilitates the transfer of funds of depositors to an institution without itself becoming a holder of an account. Except for the situations noted below, the definition includes anyone in the business of placing funds in an account for a third party, whether or not the deposit broker is the legal or beneficial owner of the account, and whether or not the placement of funds in accounts is that person's primary business. The term "deposit broker" excludes a depository institution which generates deposits for itself, but includes depository institutions generating deposits for other depository institutions. Also, the definition includes subsidiaries, service corporations or affiliates which place funds with related depository institutions. Likewise, no exception is made for depository institutions either owned by or affiliated with securities firms.

The definition does not include employees of depository institutions. Because the agencies are concerned, however, that too broad a definition of "employee" would lead to circumvention of the intent behind the proposed amendments, the rule adopts the proposed definition of an "employee" of an institution as a person: (1) Who is employed exclusively by the institution for which he or she is soliciting deposits; (2) whose primary compensation is in the form of a salary; (3) who does not share his or her compensation with a deposit broker; and (4) whose office space or place of

business is used exclusively for the benefit of his or her institution/employer.

The definition of "deposit broker" does not generally include trust departments of insured institutions; however, where a deposit broker places deposits through a trust department, all funds placed by that deposit broker will be insured only up to $100,000. Also, a trust department would be deemed a deposit broker in connection with trusts established primarily for the purpose of placing funds with insured institutions.

The definition of "deposit broker" in the proposed rule included all deposit-listing services. In light of the comments and other available information, the Agencies have concluded that it would be infeasible to identify deposits that are placed by reference to listing services that did not actually facilitate the placement of funds with insured institutions. In addition, where the only function of a deposit listing service is to provide information on the availability and terms of accounts, the Agencies believe that the service's minimal participation in the placement process does not merit treatment as a deposit broker. Therefore, the Agencies have specifically excluded from the definition of "deposit broker" any deposit-listing service that does not receive a commission for the number or amount of deposits placed as the result of its service, if the service provided is limited to the collection and transmission of information on the accounts available, and the customer, rather than the deposit-lister or its agent, transmits the funds to the insured institution.

The FDIC and the Board do not intend to disturb traditional deposit relationships. Accounts held by agents will remain insured up to $100,000 per principal, provided that the agent is not engaged in the business of placing deposits. Thus, arrangements such as real estate agent accounts and attorney escrow accounts will not be affected by the amendments because such accounts are held for a purpose incidental to the ordinary business activities of the agent.

Some commenters expressed concern that the rule as proposed could limit the insurance coverage available to trustees under the current regulations. While the agencies do not intend to alter the coverage currently available to traditional trust arrangements, they are concerned that a blanket exemption of all trustees from the definition of deposit broker could lead to substantial circumvention of the rule through various trust-type mechanisms. The final rule therefore exempts trustees from the definition of "deposit broker" provided that the trust in question is not used primarily for the purpose of placing funds in insured institutions. This will preserve the current insurance coverage for trusts while limiting the usefulness of trusts as devices to circumvent the rule.

The insurance coverage currently available to deposits held in connection with pension funds and other employee benefit plans will not be affected by the rule unless such deposits are placed by or through a deposit broker. In addition, trustees and custodians of IRA and Keogh accounts will not be deemed to be deposit brokers. Likewise, the insurance coverage of accounts of public units will not be affected, provided that a deposit broker is not employed to place the funds.

In situations where deposits of pension or other employee-benefit plans are placed by plan administrators or investment advisors, such deposits will not be deemed "placed by or through a deposit broker" as long as such plan administrator or investment advisor plays a managerial role relative to the applicable pension or employee-benefit plan. The reason for this exception is to prevent undue disruption in the pension-fund industry and to further the intent of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001–1462).

Negotiable Certificates of Deposit

Under the current regulations, for insurance purposes, the "depositor" of a negotiable or bearer-form deposit is the person holding the deposit on the date the institution is closed because of insolvency, 12 CFR 330.11 and 570.11. The Agencies were concerned that such deposits might be used to subvert the intent of the proposed amendments, and requested comments on amendments to current rules which would address this potential problem. After careful consideration of comments received in this regard, the Agencies have determined that it is not appropriate at this time to impose any special restrictions on negotiable certificates. The FDIC and the Board will monitor this area and will take appropriate action in the future if necessary.

Effective Date

The Agencies received numerous comments with regard to the effective date of the regulation. Some commenters endorsed an earlier effective date, while others supported a more gradual phase-out of insurance for brokered deposits. Still others recommended immediate emphasis on existing supervisory remedies for troubled institutions in conjunction with continued study of the issue, including deferral to legislative initiatives. The Agencies also received a petition for revision of this rulemaking process and request for an extension of the comment period from an owner of a listing service; the Board and the FDIC are taking this opportunity to deny that petition and request because they believe it essential that the issue of brokered funds abuse be promptly addressed, particularly in view of the recent decontrol of interest rates. The Agencies believe that the public has had ample time, during the comment periods provided for in the Advance Notice and the Proposal, to express its views on the issues raised by deposit brokerage and the means of addressing those issues.

The effective date for the final rule, as stated in the proposal, is October 1, 1984. Thus, except for the situations noted below, any brokered deposits placed or renewed on or after October 1, 1984, will be subject to the new regulations on insurance coverage. All deposits with insured institutions prior to October 1, 1984, irrespective of whether they would qualify as brokered deposits under the final rule, will be insured until their maturity dates under the regulations predating the final rule. The purposes of the delayed effective date and continuation of insurance on accounts existing before that date are: (1) To fulfill depositors' expectations as to terms and conditions of existing deposits which, because of the term remaining, could not be withdrawn without imposition of a penalty for early withdrawal; (2) to allow institutions relying heavily on brokered deposits time to adjust their deposit structures; and (3) to provide for an orderly adjustment of funding techniques. Based on their examination of the problems facing institutions in adjusting to the effects of the rule, and their analysis of comments received, the Agencies have concluded that an effective date of October 1, 1984, provides enough time for institutions and the purchasers of brokered deposits to adjust their business practices.

Questions arose in the comments about the treatment to be afforded money market deposit accounts ("MMDAs") and other accounts without existing maturities placed before October 1, 1984. The issue was raised whether such accounts placed by or through a broker prior to the effective date of the final rule would be insured under the pre-existing regulations until the funds are withdrawn or whether the insurance coverage on those accounts would change as of the effective date of the rule. Upon consideration of the comments, the Agencies have decided that funds in such accounts placed by brokers with insured institutions before

October 1, 1984, will be insured under the insurance coverage rules predating the final rule until November 30, 1984. This treatment allows for a two-month period after the general effective date of the final rule in which holders of such accounts may adjust their deposit-placement practices. Deposits with no fixed Maturities placed by brokers on or after October 1, 1984, will be subject to the final rule and its general effective date of October 1, 1984.

Certificates of deposit held in trust for bondholders under "loans-to-lenders" or industrial development bond ("IDB") programs are covered by the final rule. These programs entail a transaction where the proceeds of an IDB issuance are placed with an insured institution, in exchange for a certificate of deposit, to fund a designated project. Because of the trust arrangement involved, under the Agencies' current insurance coverage rules each bondholder owns an insured interest in the deposit up to $100,000 and the deposit, therefore, may be fully insured by either the FDIC or the FSLIC. The final rule will limit the insurance coverage of such deposits to $100,000 inasmuch as it specifically defines a trustee in this type of transaction to be a "deposit broker." Thus, beginning October 1, 1984, IDB programs will no longer be buttressed by full deposit insurance. A question arises, however, about existing IDB programs in which the deposit in question has a term shorter than the period of the underlying loan, as opposed to the date of the maturity of the underlying bond. If such existing deposits are deemed to be placed or renewed after October 1, 1984, under the final rule, they will be subject to the new regulations and will therefore be ineligible for multiple insurance coverage. Such a result would trigger acceleration of the maturity dates of the underlying bonds, an event which could result in the bankruptcy of the project and severe liquidity problems for the involved depository institution. In order to avoid this undue hardship, and because of the mandatory nature of the rollover provisions in the bond indentures, the Agencies believe that the maturity dates of such deposits should be deemed to be those of the bonds they secure. Therefore, the final rule provides that deposits issued by an institution to a trustee who is a "deposit broker" with respect to such certificates under either § 330.0(b)(2) or § 561.2a(a)(2) shall not be deemed to be renewed, for purposes of the regulation, unless such renewal is discretionary. This exception will apply only to IDB transactions entered into prior to October 1, 1984.

As already noted, brokered deposits placed or renewed on or after October 1, 1984, will be subject to the restrictive insurance coverage provisions of the final rule. Upon considering the many comments on this issue and analyzing other available data, the Agencies believe it is necessary to safeguard against liquidity problems for insured institutions that have relied heavily in the recent past on brokered deposits as a source of funding. Thus, the final rule provides that brokered deposits held at insured institutions on the date the final rule is adopted by the Agencies may be renewed one or more times by the depositor within a period of two years after the effective date of the final rule (up to October 1, 1986) and continue to qualify for deposit insurance under the regulations predating the final rule until their first maturity after October 1, 1986. However, such deposits may not be renewed for a dollar amount greater than their original denomination, and must be held by the owners in their individual capacities. Deposits held prior to the date of adoption of the final rule (March 26, 1984) in custodial or trust capacities by or through deposit brokers may become eligible for this "rollover" exception only if, by June 30, 1984, the institution is provided with the names and ownership interests of the parties for whom such deposits are maintained. The resulting insurance coverage will then apply only to the owner so identified.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (Sept. 19, 1980), the FDIC and the Board are providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the rules.* These elements have been incorporated elsewhere in the supplementary information regarding the rule.

2. *Small entities to which the rules apply.* The rules apply to insured institutions.

3. *Impact of the rules on small institutions.* As brokered deposits do not yet constitute a significant portion of total deposits of most insured institutions, the rules will not have a significant impact on a substantial number of small entities.

4. *Overlapping or conflicting federal rules.* There are no federal rules that duplicate, overlap, or conflict with this rule.

5. *Alternatives to the rules.* The rule limits federal deposit insurance on brokered deposits. Other alternatives considered, such as increased monitoring and approval mechanisms and blanket prohibitions on brokered deposits, would be more burdensome to the regulatees or would eliminate the benefits of a regulated activity, including availability of liquidity.

List of Subjects

12 CFR Part 330

Bank deposit insurance, Banks, Banking.

12 CFR Parts 561 and 564

Bank deposit insurance, Banks, Banking, Savings and loan associations.

Accordingly, the FDIC hereby amends Part 330 of Title 12 of the Code of Federal Regulations and the Board hereby amends Parts 561 and 564 of Title 12 of the Code of Federal Regulations as set forth below.

PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

1. The authority citation for Part 330 is as follows:

Authority: 12 U.S.C. 1813, 1817, 1819, 1821, 1822.

2. Section 330.0 is hereby revised as follows:

§ 330.0 Definitions.

(a) For the purpose of this Part 330, the term "insured bank" includes an insured branch of a foreign bank.

(b) Except as provided in paragraph (c) of this section, the term "deposit broker" includes: (1) Any person engaged in the business of placing funds, or facilitating the placement of funds, of third parties with insured banks or the business of placing funds with insured banks for the purpose of selling interests in those deposits to third parties; and (2) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured bank to use the proceeds of the account to fund a prearranged loan.

(c) The term "deposit broker" shall not include the following: (1) An insured bank, with respect to funds placed with that bank; (2) an employee of an insured bank, with respect to funds placed with his or her employer/bank; (3) a trust department of an insured bank or of an institution insured by the Federal Savings and Loan Insurance Corporation, provided that the trust in question has not been established for the primary purpose of placing funds with insured depository institutions; (4) the trustee of a pension or other employee benefit plan, with respect to funds of the plan; (5) a person acting as a plan administrator or an investment

adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan; (6) the trustee of a testamentary account under section 330.3 of this Part; (7) the trustee of an irrevocable trust (other than one described in paragraph (b)(2) of this section), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions; (8) a trustee or custodian of a pension or profit-sharing plan qualified under section 401(d) of 408(a) of the Internal Revenue Code of 1954, as amended; (9) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

(d) The term "employee," for purposes of this section only, includes only an employee: (1) Who is employed exclusively by the insured bank for which he or she is soliciting deposits; (2) whose compensation is primarily in the form of a salary; (3) who does not share his or her compensation with a deposit broker; and (4) whose office space or place of business is used exclusively for the benefit of his or her insured bank/employer.

(e) For purposes of this section only, the term "business of placing funds or facilitating the placement of funds" shall not include deposit listing services where: (1) The person or entity listing the deposit is compensated only by means of a subscription fee which is not calculated on the basis of the number or dollar amount of deposits placed as the result of information provided by such service; (2) the service provided is limited to the gathering and transmission of information concerning the availability of deposits; and (3) any funds to be invested in deposit accounts are remitted directly by the depositor to the insured bank and not, directly or indirectly, through the person or entity providing the listing service.

3. Section 330.2 is hereby revised as follows:

§ 330.2 Individual accounts.

Funds owned by an individual (or by the community between husband and wife of which the individual is a member) and deposited into one or more deposit accounts in his or her own name shall be insured up to $100,000 in the aggregate.

4. Section 330.10 is hereby revised as follows:

§ 330.10 Trust accounts.

All trust interests for the same beneficiary deposited into deposit accounts established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to $100,000 in the aggregate, except time and savings deposits of the same beneficiary which qualify as pension or profit-sharing plans under section 401(d) or 408(a) of the Internal Revenue Code of 1954, as amended. The vested and ascertainable interest (excluding any remainder interest) of each beneficial owner in a time or savings deposit established under either of the above sections, shall be added together and insured to an additional $100,000 maximum for each beneficial owner, notwithstanding the insurance provided in this section to other types of deposit accounts. Except where the trustee is a deposit broker, the insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangement.

5. Section 330.13 is hereby added as follows:

§ 330.13 Accounts held by or established through intermediaries.

(a) Except as provided in paragraph (b) of this section, funds owned by a principal and deposited into one or more deposit accounts in the name or names of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(b) Notwithstanding any other provision of this part, funds deposited into one or more deposit accounts by or through a deposit broker shall be added to any other deposits placed by or through that deposit broker and insured up to $100,000 in the aggregate. This subsection shall apply to all accounts opened, added to, or renewed on or after October 1, 1984, except that it shall not apply until:

(1) Either October 1, 1986, or the maturity date of the deposit account, whichever is later, with respect to renewals of all time deposits in existence on March 26, 1984, provided that: (i) Only the interests of persons in such accounts as of March 26, 1984, shall be recognized for purposes of insurance coverage; and (ii) the identities and interests of those beneficial owners are reflected on the books and records of the bank by June 30, 1984;

(2) November 30, 1984, with respect to deposit accounts which have no specified maturity date; and

(3) The maturity date of the corresponding loan with respect to renewals of deposits established before October 1, 1984, by a person who is a deposit broker under section 330.0(b)(2) of this part, only if renewals of such deposits are mandatory under the underlying account agreement.

(c) Funds held by a guardian, custodian or conservator for the benefit of a ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited into one or more accounts in the name of the guardian, custodian or conservator shall be added to any individual accounts of the ward or minor and insured up to $100,00 in the aggregate.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

1. The authority citation for Part 561 is as follows:

Authority: 12 U.S.C. 1724, 1725, 1726, 1728, 1730.

2. Add new § 561.2a, as follows:

§ 561.2a Definition of "deposit broker."

(a) Except as provided in paragraph (b) of this section, the term "deposit broker" includes: (1) Any person engaged in the business of placing funds, or facilitating the placement of funds, of third parties in accounts issued by an insured institution or the business of placing funds in accounts issued by insured institutions for the purpose of selling interests in such accounts to third parties; (2) an agent or trustee who establishes an account to facilitate a business arrangement with the institution to use the proceeds of the account to fund a prearranged loan.

(b) The term "deposit broker" does not include the following: (1) An insured institution, with respect to accounts issued by that institution; (2) an employee of an insured institution, with respect to accounts issued by his or her employer; and (3) a trust department of a bank, the accounts of which are insured by the Federal Deposit Insurance Corporation, or of an insured institution, provided that the trust in question has not been established for the primary purpose of placing funds in accounts issued by insured depository institutions; (4) the trustee of a pension or other employee benefit plan, with respect to funds of the plan; (5) a person acting as a plan administrator or an investment adviser in connection with a pension or other employee benefit plan, provided that that person is performing managerial functions with respect to the plan; (6) the trustee of a testamentary account; (7) the trustee of an irrevocable express trust (other than one described in paragraph (a)(2) of this section), provided that the trust in question has not been established and is not being used primarily for the purpose of placing

funds in accounts issued by insured institutions; (8) the trustee or custodian of a pension or profit-sharing plan which qualifies under sections 401(d) or 408(a) of the Internal Revenue Code of 1954 as amended; and (9) an agent or custodian, provided that the primary function of the relationship pursuant to which the funds are invested is not investment of funds in insured accounts.

(c) The term "employee," for purposes of this section only, includes only an employee: (1) Who is employed exclusively by the institution for which he or she is soliciting deposits; (2) whose compensation is primarily in the form of a salary; (3) who does not share his or her compensation with a deposit broker; and (4) whose office space or place of business is use exclusively for the benefit of his or her institution/employer.

(d) For purposes of this section, the term "business of placing funds or facilitating the placement of funds" does not include the provision of deposit-listing services where: (1) the person or entity providing the service is compensated only by means of a subscription fee which is not calculated on basis of the number or dollar amount of accounts placed as a result of information provided by such service; (2) the service provided is limited to the gathering and transmission of information concerning availability of accounts; and (3) any funds to be invested in accounts are transmitted directly to the insured institution by the depositor and not, directly or indirectly, through the person or entity providing the listing service.

PART 564—SETTLEMENT OF INSURANCE

3. The authority citation for Part 564 is as follows:

Authority: 12 U.S.C. 1724, 1725, 1726, 1728, 1730.

5. Revise § 564.3 as follows:

§ 564.3 Individual accounts.

Funds owned by an individual (or by the husband-wife community of which the individual is a member) and invested in one or more accounts in his or her own name shall be insured up to $100,000 in the aggregate.

6. Amend § 564.10 by adding a sentence at the end thereof, as follows:

§ 564.10 Trust accounts and IRA and Keogh accounts.

* * * Except where the trustee is a deposit broker, the insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settler or beneficiary of such trust arrangement.

7. Add § 564.12, as follows:

§ 564.12 Accounts held by or established through intermediaries.

(a) Except as provided in paragraph (b) of this section, funds owned by a principal and invested in one or more accounts in the names of agents or nominees shall be added to any individual accounts held directly by the principal, and insured up to $100,000 in the aggregate.

(b) Notwithstanding any other provision of this Part, funds invested in one or more accounts by or through a deposit broker shall be added to any other deposits placed by or through that deposit broker and insured up to $100,000 in the aggregate. This paragraph shall apply to all accounts opened, funds placed in existing accounts, and renewals of existing accounts, where such opening, placement, or renewal occurs on or after October 1, 1984, except that it shall not apply until:

(1) Either October 1, 1986, or the maturity date of the account, whichever is later, with respect to renewals of time deposits in existence on March 26, 1984, provided that: (i) Only interests of persons in such accounts as of March 26, 1984, will be recognized for purposes of insurance coverage, and (ii) the identities and interests of such beneficial owners are reflected on the records of the insured institution by June 30, 1984;

(2) November 30, 1984, with respect to accounts which have no specified maturity date; and

(3) The maturity date of the corresponding loan, with respect to renewals of accounts established prior to October 1, 1984, and held by a person who is, with respect to such accounts, a deposit broker under § 561.2a(a)(2), only if such renewal is mandatory under the terms of the account agreement or trust agreement governing the rights and obligations of the trustee or agent.

(c) A loan servicer who receives loan payments and places or maintains such payments in an insured institution prior to remittance to the lender or other parties entitled to the funds shall, for insurance-of-accounts purposes, be considered an agent of each borrower.

(d) Funds held by a guardian, custodian, or conservator for the benefit of a ward or a minor under a Uniform Gifts to Minors Act, and invested in one or more accounts in the name of the guardian, custodian, or conservator, shall be added to any individual accounts of the ward or minor and insured up to $100,000 in the aggregate.

By Order of the Board of Directors, March 26, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

By Order of the Board, March 26, 1984.

Federal Home Loan Bank Board.

J. J. Finn,

Secretary to the Board.

[FR Doc. 84-8673 Filed 3-30-84; 8:45 am]

BILLING CODE 6714-01-M, 6720-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

Brokered Deposits; Limitations Applicable to Institutions With Low Net Worth

Dated: March 26, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Interim final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has adopted an interim final rule amending the regulations applicable to institutions the accounts of which are insured by the Corporation ("insured institutions"), by limiting to five percent the amount of deposits that certain insured institutions may acquire by or through a deposit broker. This rule will apply only to insured institutions whose net worth at the beginning of any quarter is less than three percent of their liabilities, without averaging or phase-in calculations. The amendment is intended to address the possibility that institutions with low net worth could have accumulated large amounts of insured deposits through brokers prior to the effective date of the final rule adopted today by the Board limiting insurance on such deposits. This regulation will expire on October 1, 1984.

DATES: Effective from March 26, 1984, through September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Wendy B. Samuel, Attorney, (202) 377-6447, Federal Home Loan Bank Board, Office of General Counsel, 1700 G Street, N.W. Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On November 1, 1983, the Board (together with the Federal Deposit Insurance Corporation) issued an Advance Notice of Proposed Rulemaking soliciting comments on the use of brokered deposits by insured institutions. 48 FR 50339. On January 23, 1984, the FDIC and

the Board issued a proposed rule which would limit the insurance on accounts placed by or through a broker to $100,000 per broker. *See* 49 FR 2787 (January 23, 1984). That regulation was adopted substantially as proposed, in final form, today, March 26, 1984, effective October 1, 1984.

Among the concerns raised by the Advance Notice, the proposed rule, and the comments received was the problem presented by troubled or weak institutions having unlimited access to brokered funds. Access to brokered deposits was seen as making it possible for institutions with little net-worth "cushion" to continue operating beyond the time at which natural market forces would otherwise have precipitated their failure. Brokered deposits also enable insured institutions to obtain deposits more rapidly than they may be able to find safe and sound investments to purchase with the funds thus obtained, and the Board's experience indicates that an institution with low net worth is particularly vulnerable to failure under such circumstances. Noting this possibility, a number of commenters suggested increased monitoring and supervision of brokered funds acquisition by institutions with low net worth. Commenters also suggested that a limit be placed on the amount of brokered funds a troubled or weak institution may acquire.

The Board is seriously concerned by a perceived trend toward rapid increases in the deposit base of troubled and potentially troubled institutions without a concomitant increase in their net worth. The level of brokered deposits in insured institutions has risen rapidly since the beginning of 1980. Of those institutions which obtained more than five percent of their deposits through brokers, 42 percent had regulatory net worth below three percent. In 1983, two-thirds of the insured institutions closed by the FSLIC had brokered deposits in excess of five percent of their total deposits. The Board is concerned about the adverse effect that the acquisition of substantial amounts of high-rate brokered deposits by institutions with a low net worth may have on such institutions and ultimately on the FSLIC.

While the Board believes that the final rule adopted today limiting insurance of brokered deposits will reduce the availability of such funds to weak or troubled institutions, it is also concerned that such institutions will seek to take in substantial amounts of insured brokered deposits prior to the effective date of that rule. The delayed effective date, while necessary to permit insured institutions to adjust to the final rule limiting deposit insurance for funds placed by or through brokers, may offer an incentive for weak or thinly-capitalized institutions to accept large amounts of brokered deposits without prudent reinvestment plans. While solvent, well-managed institutions should be able to absorb any losses associated with brokered-fund investments in the few months before the effective date, an institution with little net-worth cushion would substantially increase its chances of failure.

Consequently, the Board is adopting this interim final regulation to prohibit institutions with low net worth from having more than five percent of their deposits acquired by or through deposit brokers. "Deposit broker" is defined as in the final regulation limiting insurance coverage for deposits obtained by or through brokers. The definition includes any person or entity engaged in the business of placing or listing for placement deposits of an insured institution. It also includes agents or trustees who establish an account to facilitate a business arrangement with the institution to use the proceeds of the account to fund a prearranged loan. Excluded from the definition are: (1) An insured institution, with respect to accounts issued by that institution; (2) employees of the insured institution, with respect to accounts issued by their employer; (3) trust departments of insured institutions; (4) trustees of pension and other employee-benefit funds investing such funds; (5) investment advisers of pension funds; (6) trustees of testamentary trusts; (7) trustees of irrevocable express trusts, to the extent that the beneficiaries of such trusts have not, directly or indirectly, contributed to the corpus of the trust; (8) trustees or custodians of IRA and Keogh deposits; and (9) agents or custodians, provided that the primary function of the relationship pursuant to which the funds are invested is not investment in insured account funds.

This interim final regulation will apply to institutions that have net worth of less than three percent of liabilities. Liabilities are computed in the same manner as in the minimum net-worth requirement of 12 CFR 563.13(b)(2), with two exceptions. First, the calculation of net worth does not permit the averaging of liabilities over a five-year period. The Board believes that five-year averaging permits rapidly expanding institutions to understate their true net-worth requirements. Second, net worth will not be calculated by use of the twenty-year "phase-in" method. That method permits institutions that have not reached the twentieth anniversary of account insurance to "phase in" their net-worth requirement by multiplying three percent of liabilities by a fraction of which the numerator is the number of consecutive years of insurance and the denominator is twenty. Use of the twenty-year phase-in would permit institutions with net worth as low as 0.15 percent of liabilities to avoid limitation of their use of brokered deposits. By excluding the use of the twenty-year phase-in calculation, the rule will permit the Board to limit the use of brokered funds by many potentially troubled and very thinly-capitalized institutions. *De novo* institutions subject to the requirements of 12 CFR 563.13(b)(2)(iii) will be subject to this regulation if their net worth is less than the percentage of liabilities required by that provision.

Rather than absolutely prohibiting the use of brokered deposits by these institutions, the rule allows funds to be obtained by or through deposit brokers in amounts up to five percent of deposits, determined quarterly. The Board believes that this provision will preserve the ability of institutions with low net worth to raise deposits through brokers without significantly increasing their chance of failure.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Board hereby certifies that the interim final rule would not have a significant economic impact on a substantial number of small entities. The reason for this certification is that only a few institutions would have both net worth below the proposed requirement and brokered deposits in excess of five percent of deposits. Therefore, an initial regulatory flexibility analysis is not required, 5 U.S.C. 605(b).

The Board finds that observance of the public notice and comment period set forth at 5 U.S.C. 552(b) and 12 CFR 508.11, and the delay of the effective date set forth at 5 U.S.C. 552(d) and 12 CFR 508.14, would be impracticable and contrary to the public interest for the reasons described above.

List of Subjects in 12 CFR Part 563

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 563, Subchapter D, Chapter V, of Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Add a new § 563.4 as follows:

§ 563.4 Brokered deposits.

(a) For purposes of this section, the term "net-worth requirement" means: (1) An amount at least equal to three percent of all liabilities (i.e., total assets, net of the following: loans in process, specific reserves, and deferred credits other than deferred taxes; minus net worth as defined by § 561.13 of this Subchapter); or (2) for institutions subjects to the requirements of § 563.13(b)(2)(iii) of this Part, the applicable percentage of such liabilities required by § 563.13(b)(2)(iii).

(b) Any insured institution which, at the beginning of any calendar quarter, does not meet its net-worth requirement shall not, during that quarter, accept deposits obtained by or through a deposit broker, as defined in § 561.2a of this Subchapter, in excess of five percent of its total deposits.

(c) This section expires October 1, 1984.

(12 U.S.C. 1724, 1725, 1726, 1728)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-8674 Filed 3-30-84; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-88-AD; Amdt. 39-4837]

Airworthiness Directives; British Aerospace Viscount Models 700 and 800 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which increases the scope of an inspection of the nosewheel assembly on British Aerospace, Aircraft Group, Viscount Model 700 and 800 series airplanes. In addition, a modification on the nosewheel steering lock detent cable assemblies is required on all Model 700 series airplanes. The inspections and modifications are necessary to prevent possible collapse of the nose landing gear. This action will supersede an existing AD applicable to the same components.

EFFECTIVE DATE: May 6, 1984.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. James Leeder, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 446-2826. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Preliminary Technical Leaflets (PTL) No. 262, Issue 4, for all Model 700 series airplanes and PTL No. 125, Issue 4, for all Model 800 series airplanes as mandatory. Compliance with Issue 3 of these PTL's is required by AD 70-16-06.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthinesss directive requiring inspections, repairs, and modifications, as necessary, of the nose wheel landing gear was published in the **Federal Register** on December 27, 1983 (48 FR 56959). The comment period closed February 13, 1984, and interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

It is estimated that the cost impact to the U.S. operators will be less than $745 per airplane, or less than $25,330 for the entire fleet, which includes repetitive inspections for the next 10 years. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

British Aerospace, Aircraft Group: Applies to all Viscount Model 700 series and 800 series airplanes certificated in all categories. Compliance required as indicated. To prevent collapse of the nose landing gear, accomplish the following:

1. Within the next six months time in service after the effective date of this AD, unless previously accomplished within the last six months, and thereafter at intervals not to exceed six months, inspect and repair, as necessary, the nose landing gear in accordance with the Paragraph 2, Accomplishment Instructions, of British Aerospace Preliminary Technical Leaflet No. 125, Issue 4, for all Model 800 series airplanes. Paragraphs 2.5 and 2.5.1 must be accomplished at the first inspection and thereafter at intervals not to exceed one year.

2. Within the next six months time in service after the effective date of this AD, unless previously accomplished within the last six months, and thereafter at intervals not to exceed six months, inspect and repair, as necessary, the nose landing gear in accordance with the Accomplishment Instructions of paragraphs 2.1 through 2.4, and 2.7 of the British Aerospace Preliminary Technical Leaflet No. 262, Issue 4, for all Model 700 series airplanes; and during the first inspection only, accomplish paragraph 2.6 and BA Modification D.3284, if applicable. Paragraph 2.5 must be accomplished at the first inspection and thereafter at intervals not to exceed one year.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

4. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This supersedes Amendment 39-1058 (35 FR 12325), AD 70-16-06.

This amendment becomes effective May 6, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502) 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model Viscount 700 and 800 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on March 22, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-8641 Filed 3-30-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 83-NM-102-AD; Amdt. 39-4838]

Airworthiness Directives; McDonnell Douglas Model DC-9-10 and -30 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires eddy current inspection, and repair, if necessary, of the non-ventral aft pressure bulkhead on certain McDonnell Douglas Model DC-9 airplanes. There have been reports of cracks in the webs. This action is necessary to detect fatigue cracks which could lead to possible structural failure of the non-ventral aft pressure bulkhead and loss of cabin pressurization.

DATES: Effective May 6, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) to require eddy current inspection for fatigue cracks and repair, if necessary, of the non-ventral aft pressure bulkhead on certain McDonnell Douglas Model DC-9 airplanes was published as a Notice of Proposed Rulemaking (NPRM) in the Federal Register November 25, 1983 (48 FR 53128). The comment period for the proposal closed on January 11, 1984.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Six comments were received. One commenter objected to the intent of this proposed rule and questioned the validity of imposing AD action against the modified bulkhead structures after the accomplishment of preventive modification per McDonnell Douglas DC-9 Service Bulletin 53-174. This commenter considered the repetitive inspection an appropriate item for inclusion in the Supplemental Inspection Document (SID). In view of the demonstrated safety problem, and the fact that the SID program has not been mandated for the DC-9, the FAA considers inclusion of the repetitive inspections for all airplanes necessary.

One commenter felt that the compliance time for the final rule should be extended to 6,000 landings as recommended by McDonnell Douglas DC-9 Service Bulletin 53-174, instead of 4,500 landings as proposed in the NPRM. The FAA considers that the 4,500 landing requirement is appropriate based upon the anticipated effective date of this rule.

Several editorial comments have been suggested to rewrite and/or rephrase portions of the accomplishment instructions of the proposed rule. The comments do not significantly affect the intent of the proposed rule. Therefore, the FAA concurs and the suggested changes have been incorporated in this AD as appropriate.

Two commenters agreed with the intent of the AD as proposed, and one commenter disagreed with the number of U.S. registered airplanes that were affected. The FAA concurs and this AD has been changed to specify the correct number of affected airplanes.

The estimated costs associated with the proposed AD are as follows: 156 U.S. registered airplanes are affected which will require approximately 386 manhours per airplane to accomplish the required repair/rework, and 356 manhours per airplane to accomplish the required repetitive inspections. Average labor charge is $35 per hour and replacement parts can be obtained at an estimated cost of $800 per unit assembly. Based on these figures, the inspection cost would be $1,943,760, and repair cost is $2,232,360. Therefore, the total expected economic impact is estimated to be $4,176,120. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule, with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

McDonnell Douglas: Applies to certain McDonnell Douglas Model DC-9-10 and -30 series airplanes, certificated in all categories, which correspond to the factory serial numbers listed in McDonnell Douglas DC-9 Service Bulletin No. 53-174, dated August 4, 1983 (hereinafter referred to as S/B 53-174), or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Compliance required as indicated in the body of this AD, unless previously accomplished.

To detect fatigue cracks in the non-ventral aft pressure bulkhead and repair, if necessary, accomplish the following:

A. Prior to the accumulation of 50,000 landings, or within the next 4,500 landings after the effective date of this AD, whichever occurs later, perform initial eddy current inspection of the pressure bulkhead webs as shown on McDonnell Douglas Service Sketch 3483 of S/B 53-174, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. If no cracks are found in aircraft Group I, as referenced in S/B 53-174, perform repetitive eddy current inspections at intervals not to exceed 14,000 landings until a preventive modification has been accomplished in accordance with the Accomplishment Instructions in S/B 53-174, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. After the accumulation of an additional 30,000 landings from the date of the crack preventive modification installation, reinstate eddy current inspections at intervals not to exceed 17,500 landings.

C. For aircraft Groups II and III, as referenced in S/B 53-174: If no cracks are found, perform repetitive eddy current inspections at intervals not to exceed 17,500 landings until a crack preventive modification has been accomplished in accordance with the Accomplishment Instructions in S/B 53-174, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. After the accumulation of an additional 30,000 landings from the date of

the crack preventive modification installation, reinstate the eddy current inspection at intervals not to exceed 17,500 landings.

D. For all aircraft Groups (i.e. I, II, and III, as referenced in S/B 53-174): If cracks are found, repair cracked area per the crack preventive modification in accordance with the Accomplishment Instructions in S/B 53-174, and, after the accumulation of an additional 30,000 landings from the date of repair, reinstate the repetitive eddy current inspection at intervals not to exceed 17,500 landings.

E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Upon request of operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the initial repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplanes unpressurized to a base in order to comply with the requirements of this AD.

H. For the purposes of complying with this AD, Subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the DC-9 airplane.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective May 6, 1984.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC-9 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on March 22, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-8642 Filed 3-30-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 83-CE-42-AD; Amdt. 39-4615]

Pilatus Britten-Norman Ltd. BN-2, BN-2A and BN-2B; Islander Series and BN-2A MK. III Trislander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 83-07-12, Amendment 39-4615 (48 FR 14353, 14354), applicable to Pilatus Britten-Norman Ltd. BN-2, BN-2A, BN-2B Islander Series and BN-2A MK. III Trislander Series airplanes. This correction is necessary because the applicability statement inadvertently included the BN-2T series airplanes.

EFFECTIVE DATE: April 9, 1984.

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

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 83-07-12, Amendment 39-4615 (48 FR 14353, 14354), applicable to Pilatus Britten-Norman Ltd. BN-2, BN-2A, BN-2B Islander Series and BN-2A MK. III Trislander Series airplanes equipped with wing tip tanks, the FAA found that the applicability statement should not have included the BN-2T series airplanes. The Pilatus Britten-Norman Ltd modification (NB/M/364), equipping the BN-2 series airplanes with wing tip fuel tanks, is not authorized for the BN-2T series airplanes. Therefore, action is taken herein to make this correction. Since this action is both clarifying and relieving in nature, notice and public procedure hereon are not considered necessary.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

In FR Doc. 83-8612 (48 FR 14353, 14354), appearing on page 14354 in the **Federal Register** of April 4, 1983, make the following correction:

Restate the applicability statement to read as follows:

"**Pilatus Britten-Norman Ltd.:** Applies to BN-2, BN-2A and BN-2B Islander Series equipped with wing tip fuel tanks and BN-2A MK. III Trislander Series (all Serial Numbers) airplanes certificated in any category."

(Secs. 313(a), 601 and 603 of the 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); and sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Issued in Kansas City, Missouri, on March 21, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-8643 Filed 3-30-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21CFR Part 173

[Docket No. 81F-0197]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Dimethylamine-Epichlorohydrin Copolymer

AGENCY: Food and Drug Administration.

ACTION: Final rule; clarification.

SUMMARY: The Food and Drug Administration (FDA) is publishing additional information on a final rule published in the **Federal Register** of August 19, 1983 (48 FR 37614), that amended the food additive regulations to provide for the use of dimethylamine-epichlorohydrin copolymer for use as a flocculant and/or decolorizer in the clarification of refinery sugar liquors and juices. The agency is providing an additional 30-day period for submitting objections or additional information in support of objections already filed in response to this regulation.

DATE: Objections or additional information in support of previously filed objections by May 2, 1984.

ADDRESS: Written objections or additional information in support of previously filed objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: FDA published a final rule in the Federal Register of August 19, 1983 (48 FR 37614) that amended the food additive regulations (21 CFR 173.60) to provide for the safe use of dimethylamine-epichlorohydrin copolymer for use as a flocculant and/or decolorizer in clarifying refinery-sugar liquors and juices. That action responded to a petition (FAP OA3500) filed by American Cyanamid Co., Wayne, NJ 07470.

The preamble to the regulation explained that the agency had evaluated data in the petition and had concluded that the proposed use of the substance was safe, and that the food additive regulations should be amended as requested in the petition. The document did not discuss the specific nature of the data evaluated.

Subsequently, the Natural Resources Defense Council, Inc., 122 East 42d St., New York, NY 10168; and Public Citizen's Health Research Group, 2000 P St. NW., Washington, DC 20036, filed objections to the regulation. The objections argued that the agency did not provide adequate information about the additive and the basis for FDA's decision to approve it.

The objections stressed that the preamble to the Federal Register document did not disclose that the agency's action involved consideration of whether the Delaney anticancer clause might apply to the additive. According to the objections, omission of such an explanation foreclosed interested persons from effectively commenting on or objecting to the regulation. The objections requested that FDA publish a supplemental Federal Register notice discussing the factual and legal bases for the decision. The objections also argued that the final regulation is illegal because it relies on the constituents theory, which the objections characterize as contrary to the Delaney anticancer clause. Finally, the objections requested an immediate stay of the regulation and an additional opportunity for objection, and they reserved the right to request a hearing at a later stage in the process.

This clarification of the final rule responds to the request for supplemental information about the reasons for FDA's decision and provides an additional 30 days for the submission of objections or additional information in support of objections that have already been filed. FDA will act on the remaining issues raised by the objections and requests for a hearing after it has evaluated any further objections or other information filed in response to this document. The agency is not staying the regulation because FDA believes that the additive is safe, and that a stay would not serve the public interest.

In evaluating American Cyanamid's petition, FDA considered data bearing on the possible presence in food of tiny amounts of a carcinogenic chemical that might be present as a constituent in the finished additive. After evaluating all the available data, FDA concludes that there is no reason to expect that even trivial amounts of epichlorohydrin (the carcinogenic chemical) will be added to food. Any attempt to quantitate risk would, therefore, be meaningless, because it would be based on an assumption that FDA believes to be unsupported by fact.

Nevertheless, the agency has done an informal risk estimate to assure itself of the safety of the use of this additive. The agency has estimated that a consumer could ingest 4.5 micrograms per day of dimethylamine-epichlorohydrin copolymer if all sugar consumed were prepared with this additive. Under the specifications established by the agency, the additive may contain no more than 10 parts per million epichlorohydrin (although, in fact, epichlorohydrin has never been found in the additive). If the additive did contain 10 parts per million epichlorohydrin, and if epichlorohydrin remained in the sugar at the same level at which it was added as part of the additive, the epichlorohydrin would present a lifetime risk of cancer of no more than 2 in 1 trillion. The agency concludes that a finding of such a low risk, even using speculative, worst case assumptions, establishes that there is effectively no risk of cancer from the use of dimethylamine-epichlorohydrin copolymer.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition, the administrative record, and all documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection. Among the documents that the agency has relied upon are the following:

1. FAP OA3500, submission of January 31, 1980, Parts II and III.1.

2. Memorandum: Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch; March 7, 1980; FAP OA3500, submission of January 31, 1980.

3. FAP OA3500, submission of May 7, 1981.

4. Memorandum: Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch; June 2, 1981; FAP OA3500, submission of May 7, 1981.

5. Memorandum: Food Additives Evaluation Branch to Petitions Control Branch; November 10, 1982; Risk assessment for epichlorohydrin found as a constituent in dimethylamine-epichloro-hydrin copolymer.

6. Memorandum to the file: from W. Gary Flamm and Taylor M. Quinn; August 19, 1983; FAP OA3500.

List of Subjects in 21 CFR Part 173

Food additives, Food processing aids.

For convenience, FDA is republishing in its entirety the final regulation that appeared in the Federal Register of August 19, 1983. This clarification of the final rule does not amend the regulation in any way. This clarification of the final rule is issued under the Federal Food, Drug, and Cosmetic Act.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

§ 173.60 Dimethylamine-epichlorohydrin copolymer.

Dimethylamine-epichlorohydrin copolymer (CAS Reg. No. 25988–97–0) may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is produced by copolymerization of dimethylamine and epichlorohydrin in which not more than 5 mole-percent of dimethylamine may be replaced by an equimolar amount of ethylenediamine, and in which the mole ratio of total amine to epichlorohydrin is approximately 1:1.

(b) The additive meets the following specifications:

(1) The nitrogen content of the copolymer is 9.4 to 10.8 weight percent on a dry basis.

(2) A 50–percent-by-weight aqueous solution of the copolymer has a minimum viscosity of 175 centipoises at 25° C as determined by LVT-series Brookfield viscometer using a No. 2 spindle at 60 RPM (or by another equivalent method).

(3) The additive contains not more than 1,000 parts per million of 1,3-dichloro-2-propanol and not more than 10 parts per million epichlorohydrin. The epichlorohydrin and 1,3-dichloro-2-propanol content is determined by an analytical method entitled "The Determination of Epichlorohydrin and 1,3-Dichloro-2-Propanol in Dimethylamine-Epichlorohydrin Copolymer," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100, L St. NW., Washington, DC 20408.

(4) Heavy metals (as Pb), 2 parts per million maximum.

(5) Arsenic (as As), 2 parts per million maximum.

(c) The food additive is used as a decolorizing agent and/or flocculant in the clarification of refinery sugar liquors and juices. It is added only at the defecation/clarification stage of sugar liquor refining at a concentration not to exceed 150 parts per million of copolymer by weight of sugar solids.

(d) To assure safe use of the additive, the label and labeling of the additive shall bear, in addition to other information required by the act, adequate directions to assure use in compliance with paragraph (c) of this section.

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 2, 1984 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto or submit additional information in support of previously filed objections and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 23, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–8555 Filed 3–27–84; 4:04 pm]

BILLING CODE 4160–01–M

---

21 CFR Parts 175 and 178

[Docket No. 82F–0055]

Indirect Food Additives: Adhesive Coatings and Components; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule; clarification.

SUMMARY: The Food and Drug Administration (FDA) is publishing additional information on a final rule published in the Federal Register of August 19, 1983 (48 FR 37615), that amended the food additive regulations to provide for the use of 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate] as an antioxidant and/or stabilizer in polystyrene, rubber-modified polystyrene, and olefin polymers and as a component in adhesive formulations. The agency is providing an additional 30-day period for submitting objections or additional information in support of objections previously filed in response to the August 19, 1983 regulation.

DATE: Objections or additional information in support of previously filed objections by May 2, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a final rule published in the Federal Register of August 19, 1983 (48 FR 37615), FDA provided for the use of 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate] as an antioxidant and/or stabilizer in polystyrene, rubber-modified polystyrene, and olefin polymers and as a component in adhesive formulations (21 CFR 175.105(c)(5) and 178.2010(b)). That action responded to a petition (FAP 2B3592) filed by Uniroyal Chemical, Naugatuck, CT 06770.

The August 19, 1983 final rule explained that FDA believed that one of the materials used in manufacturing the additive was a carcinogenic compound but did not identify the substance because FDA had concluded that its identity was a trade secret. The final rule did discuss the rationale for regulating the additive and described the results of the agency's assessment of the risk from the constituent. Subsequently, The Natural Resources Defense Council, Inc., 122 East 42d St., New York, NY 10168; and Public Citizen's Health Research Group, 2000 P St. NW., Washington, DC 20036, filed objections to the regulation. The objections requested that the agency publish a supplemental Federal Register notice disclosing the constituent's chemical identity and discussing all other relevant health and safety issues. The objections also argued that the final regulation is illegal because it relied on the constituents theory, which the objections characterized as contrary to the Delaney clause. Finally, the objections requested an immediate stay of the regulation and an additional opportunity for objection and reserved the right to request a hearing at a later stage in the process.

Following FDA's receipt of the objections, Uniroyal informed FDA that it would waive trade secret status for the constituent at issue here. FDA is reissuing the final rule to provide the identity of the carcinogenic constituent and to respond to the request for a discussion of the health and safety issues involved. The agency is also providing an additional 30 days for the submission of objections or additional information in support of objections already filed to the final rule. FDA will act on the remaining issues raised by the objections and requests for a hearing after it has evaluated any further objections filed in response to this document. The agency is not staying the final rule because it believes that the additive is safe, and that a stay would not serve the public interest.

Although the food additive has not itself been found to induce cancer, it may contain trace amounts of dibutyltin diacetate, a carcinogenic compound, which is used in the manufacture of the additive. Residual amounts of reactants and manufacturing aids are commonly found as contaminants in all chemical products, even in highly purified reagent grade chemicals, including many food additives.

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless the data presented to FDA establish that the food additive is safe for that use. The concept of safety embodied in this requirement was explained in the legislative history of the Food Additives Amendment of 1958. "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H.R. Rep. No. 2284, 85th Cong., 2d Sess. 1 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The Delaney anticancer clause of the Food Additives Amendment of 1958 (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive can be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to list a use of a food additive that contained or was suspected of containing minor amounts of a carcinogenic chemical, even if the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though that color additive contains a carcinogenic constituent.

Since that decision, FDA has approved the use of three such color additives, D&C Green No. 5 (47 FR 24278; June 4, 1982) and D&C Red No. 6 and D&C Red No. 7 (47 FR 57681; December 28, 1982), on the same basis. FDA fully explained the scientific, legal, and policy underpinnings for those decisions in the advance notice of proposed rulemaking on a policy for regulating carcinogenic chemicals in food and color additives, which was published in the **Federal Register** of April 2, 1982 (47 FR 14464). In brief, the agency believes that the Delaney anticancer clause is not triggered unless the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer but that contains a carcinogenic constituent may properly be evaluated under the general safety clause of the statute, using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, —— F.2d —— (Nos. 82-3544/3759) (6th Cir. February 23, 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which, as explained above, contains a carcinogenic chemical but has not itself been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

Because 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl) propionate] has not been shown to cause cancer, the anticancer clause does not apply to it. FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemical that may be present as an impurity in the additive, and has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures used are similar to the methods used to examine the risk associated with the presence of minor carcinogenic impurities in D&C Green No. 6 (47 FR 14138; April 2, 1982), D&C Green No. 5 (47 FR 24278; June 4, 1982), and D&C Red No. 6 and D&C Red No. 7 (47 FR 57681; December 28, 1982). This risk evaluation of a carcinogenic constituent consists of two parts: (1) Assessment of the probable exposure to the constituent from the proposed use of the additive, and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

FDA estimated the potential exposure to dibutyltin diacetate from extraction studies, taking into account what fraction of the daily diet might be packaged in materials containing 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate]. FDA used data from the National Cancer Institute (NCI) carcinogenicity bioassays in which dibutyltin diacetate was administered in the diet of rats and mice to estimate the upper level of human risk from exposure to dibutyltin diacetate stemming from the proposed use of 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate]. The results of the NCI bioassay on dibutyltin diacetate indicated compound-related increases in the incidence of hepatocellular adenomas in male and female mice. (The rat study was negative.) These particular lesions, while not frank malignancies, are considered by the agency to be precursors to carcinomas and, therefore, indicative of the carcinogenicity of dibutyltin diacetate.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. FDA estimates that the upper limit individual lifetime risk from potential exposure to dibutyltin diacetate at the level considered to be a conservative estimated daily intake is 7×10^{-8} or less than 1 in 10 million. Because of numerous conservatisms in the exposure estimate, lifetime-averaged individual exposure to dibutyltin diaceatte is expected to be substantially less than the estimated daily intake, and therefore the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to dibutyltin diacetate that results from the use of 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxphenyl)propionate].

The agency has calculated an estimated daily intake of 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxphenyl)propionate] based on considerations such as migration of the additive under maximum intended use conditions into food stimulants and estimates of the probable fraction of the daily diet that packaging containing the additive may contact. The estimated daily intake for 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxphenyl)propionate] under the intended use conditions is 0.6 milligram per day (mg/day) for a 60-kilogram (kg) person (0.2 part per million (ppm) in the daily diet).

The petitioner (Uniroyal Chemical Co., Naugatuck, CT 06770) has submitted the results of several studies to demonstrate that there is a reasonable certainty of no harm from the intended use of 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl]-propionate].

These studies include an acute oral toxicity study in rats, a range-finding study (14-day maximum tolerated dose feeding study in dogs), an Ames-type mutagenicity test, and 90-day (subchronic) feeding studies in rats and dogs. The subchronic rat study included an in utero phase. The acute oral toxicity in rats is greater than 10 grams per kilogram body weight. No adverse effects were observed in the range-finding study at feeding levels of 15 percent or less. The mutagenicity test was negative. No tissue abnormalities or other compound-related adverse effects were observed in either the dog or rat subchronic feeding studies over the range of doses tested.

For the level of dietary exposure (0.2 ppm) estimated for 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate], the agency ordinarily requires, at a minimum, a subchronic toxicology study in a rodent with in utero exposure and a subchronic toxicology study in a nonrodent (Refs. 1 and 2). The toxicology studies submitted by the petitioner, therefore, satisfy the agency toxicology testing requirements for this indirect food additive. The data from the submitted toxicology studies indicate no need for additional toxicology studies. In particular, the toxicology information gives no reason to suspect 2,2'-oxamidobis[ethyl 3-(3,5,-di-*tert*-butyl-4-hydroxyphenyl)propionate] to be a carcinogen.

The level at which exposure to a food additive can be considered safe is called the acceptable daily intake. The acceptable daily intake is determined by first establishing a highest no-adverse-effect level for each of the required subchronic animal feeding studies, by applying a safety factor of 1000 to each of these no-adverse-effect levels, and by selecting the study that leads to the lower level. In both subchronic studies, the highest no-adverse-effect level was the highest level at which the additive was fed: 500 milligram per kilogram per day (mg/kg/day) for dogs and 2000 mg/kg/day for rats. A safety factor of 1000 is applied to these studies yielding 0.5 mg/kg/day for dogs and 2 mg/kg/day for rats. The study yielding the lower level is the dog study. Therefore, the agency has established the acceptable daily intake for humans as 0.5 mg/kg/day or 30 mg/day for a 60 kg person. This acceptable daily intake is 50 times greater than estimated daily intake of 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxphenyl)propionate].

FDA applied a thousandfold safety factor rather than the hundredfold safety factor set forth in 21 CFR 170.22 because the agency's calculation is based on subchronic studies. It has been the agency's general practice to apply a thousandfold safety factor when subchronic studies are relied upon to support safety, and when lifetime studies are neither required nor available (Ref. 2).

The agency has considered whether a specification is necessary to control the amount of dibutyltin diacetate that might migrate to food. The agency finds that a specification is not necessary for the following reasons: (1) The upper limit lifetime risk resulting from exposure to dibutyltin diacetate is very low; (2) use of the 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate] is limited to 0.5 percent or less of a formulation, except for use of the additive in adhesives, where migration to food is expected to be much less than migration from the regulated polymeric food-contact surfaces; and (3) when used in accordance with current good manufacturing practice, it is likely that dibutyltin diacetate will be used in the manufacture of this additive in amounts consistent with those reviewed by the agency.

FDA has reviewed the available toxicity data and its exposure calculation for the additive, and it has determined that the risk posed by exposure to dibutyltin diacetate is very low. The agency has therefore concluded that the proposed use of the food additive 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate] is safe.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection. Among the documents that the agency has relied upon are Refs. 3 through 15.

References 1 and 2 have been placed on display in the Dockets Management Branch (address above) and may be reviewed in that office between 9 a.m. and 4 p.m., Monday through Friday. The remaining references can be inspected at the Center for Food Safety and Applied Nutrition (address above) by making an appointment with the information contact person.

References

1. Carr, G. M., "Carcinogen Testing Programs," *in* "Food Safety: Where Are We?" Committee on Agriculture, Nutrition, and Forestry, United States Senate, July 1979, p. 59.

2. Kokoski, C. I., "Regulatory Food Additive Toxicology" presented at the "Second International Conference on Safety Evaluation and Regulation of Chemicals," October 24, 1983, Cambridge, MA.

3. Food Additive Petition (FAP 2B3592), Uniroyal Chemical Co., submission, dated October 15, 1981.

4. Memo from Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch, dated November 23, 1981, concerning FAP 2B3592 submission, dated October 15, 1981, "2,2'-Oxamidobis[Ethyl 3-(3,5-di-*tert*-Butyl-4-Hydroxyphenyl)Propionate] for Use as an Antioxidant in Plastics."

5. Memorandum from Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch, dated February 16, 1982, concerning FAP 2B3592 "Recalculation of EDI for 2,2-Oxamidobis [Ethyl 3-(3,5-di-*tert*-Butyl-4-Hydroxyphenyl)Propionate]."

6. Memorandum from Food Additive Evaluation Branch to Petitions Control Branch, dated February 26, 1982, concerning FAP 2B3592 "2,2'-Oxamidobis[Ethyl 3-(3,5-di-*tert*-Butyl-4-Hydroxyphenyl)Propionate) for Use as an Antioxidant in Plastics."

7. FAP 2B3592 submission, dated May 7, 1982.

8. Memorandum from Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch, dated June 7, 1982, concerning FAP 2B3592 submission, dated May 7, 1982 "High Density Polyethylene (HDPE) Extraction Data."

9. FAP 2B3592 submission, dated April 12, 1983.

10. FAP 2B3592 submission, dated April 19, 1983.

11. Memorandum from Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch, dated May 13, 1983, concerning FAP 2B3592 submissions, dated April 12, 1983 and April 19, 1983.

12. Memorandum of conference, Bureau of Foods' Cancer Assessment Committee, dated October 18, 1979, concerning "Dibutyltin Diacetate."

13. Memorandum from Executive Secretary of the Bureau of Foods' Cancer Assessment Committee to Food Additive Evaluation Branch, dated May 23, 1983, concerning "Estimation of a Safe Dose for Dibutyltin Diacetate."

14. Memorandum from Food Additive Evaluation Branch to Petitions Control Branch, dated May 24, 1983, concerning "Risk Assessment for Dibutyltin Diacetate Found as a Constituent Catalyst in the Antioxidant/Stabilizer 2,2'-Oxamidobis[Ethyl 3-(3,5-di-*tert*-Butyl 4-Hydroxyphenyl)Propionate]."

15. Memorandum from Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch, dated July 7, 1983, concerning FAP 2B3592 "Memorandum for the Record."

List of Subjects

21 CFR Part 175

Adhesives, Food additives, Food packaging.

21 CFR Part 178

Food additives, Food packaging.

For convenience, FDA is republishing in its entirety the final regulation that appeared in the **Federal Register** of August 19, 1983. This clarification of the final rule does not amend the regulation in any way.

This clarification of the final rule is issued under the Federal Food, Drug, and Cosmetic Act.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES COATINGS AND COMPONENTS

1. Part 175 is amended in § 175.105(c)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
2,2'-Oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate] (CAS Reg. No. 70331-94-1).	
* * * * *	

* * * * *

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

2. Part 178 is amended in § 178.2010(b) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
2,2'-Oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)propionate] (CAS Reg. No. 70331-94-1).	For use only: 1. At levels not to exceed 0.5 percent by weight of polystyrene and rubber-modified polystyrene complying with § 177.1640 of this chapter. 2. At levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, and 1.3. 3. At levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 3.4, 3.5, and 4.0 that contact food types I, II, IV-B, VI, VII-B and VIII described in Table 1 of § 176.170(c) of this chapter. 4. At levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, and 4.0 that contact food types III, IV-A, V, VII-A, and IX described in Table 1 of § 176.170(c) of this chapter; except that olefin copolymers complying with items 3.1 and 3.2 where the majority of polymer units are derived from propylene may contain the additive at levels not to exceed 0.5 percent by weight. 5. At levels not to exceed 0.1 percent by weight of olefin polymers complying with item 3.4 of § 177.1520(c) of this chapter, that contact food types III, VII-A, and IX described in Table 1 of § 176.170(c) of this chapter; except that olefin copolymers complying with item 3.4 where the majority of the polymer units are derived from propylene may contain the additive at levels not to exceed 0.5 percent by weight.
* * * * *	

* * * * *

Any person who will be adversely affected by the regulation may at any time on or before May 2, 1984, submit to the Dockets Management Branch (address above) written objections or additional information in support of previously filed objections and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: March 23, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-8557 Filed 3-27-84; 4:04 pm]

BILLING CODE 4160-01-M

21 CFR Part 176

[Docket No. 82F-0087]

Indirect Food Additives; Paper and Paperboard Components; Components of Paper and Paperboard in Contact with Aqueous and Fatty Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule; clarification.

SUMMARY: The Food and Drug Administration (FDA) is publishing additional information on a final rule published in the **Federal Register** of August 19, 1983 (48 FR 37617), that amended the food additive regulations by removing the upper viscosity limit of a currently regulated retention aid. The retention aid is polyamide-epichlorohydrin water-soluble thermosetting resins prepared by reacting adipic acid with diethylenetriamine to form a basic polyamide and further reacting the polyamide with an epichlorohydrin and dimethylamine mixture. The agency is providing an additional 30-day period for submitting objections or additional information in support of objections already filed in response to this regulation.

DATE: Objections or additional information in support of previously filed objections by May 2, 1984.

ADDRESS: Written objections or additional information in support of previously filed objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-334), Food and Drug

Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: FDA published a final rule in the **Federal Register** of August 19, 1983 (48 FR 37617), that amended the food additive regulations (21 CFR 176.170) by removing the upper viscosity limit of a currently regulated retention aid. The retention aid is polyamide-epichlorohydrin water-soluble thermosetting resins prepared by reacting adipic acid with diethylenetriamine to form a basic polyamide and further reacting the polyamide with an epichlorohydrin and dimethylamine mixture. That action responded to a petition (FAP 2B3622) filed by Sandoz Colors and Chemicals, East Hanover, NJ 07936.

The preamble to the regulation explained that the agency had evaluated data in the petition and had concluded that the proposed use of the substance was safe, and that the food additive regulations should be amended as requested in the petition. The document did not discuss the specific nature of the data evaluated.

Subsequently, The Natural Resources Defense Council, Inc., 122 East 42d St., New York, NY 10168; and Public Citizen's Health Research Group, 2000 P St. NW., Washington, DC 20036, filed objections to the regulation. The objections argued that the agency did not provide adequate information about the additive and the basis for FDA's decision to approve it. The objections stressed that the preamble to the **Federal Register** document did not disclose that the agency's action involved consideration of whether the Delaney anticancer clause might apply to the additive. According to the objections, omission of such an explanation foreclosed interested persons from effectively commenting on or objecting to the regulation. The objections requested FDA to publish a supplemental **Federal Register** notice discussing the factual and legal bases for the decision. The objections also argued that the final regulation is illegal because it relies on the constituents theory, which the objections characterize as contrary to the Delaney anticancer clause. Finally, the objections requested an immediate stay of the regulation and an additional opportunity for objection, and they reserved the right to request a hearing at a later stage in the process.

This clarification of the final rule responds to the request for supplemental information about the reasons for FDA's decision and provides an additional 30 days for the submission of objections or additional information in support of objections that have already been filed. FDA will act on the remaining issues raised by the objections and requests for a hearing after it has evaluated any further objections or other information filed in response to this document. The agency is not staying the regulation because FDA believes that the additive is safe, and that a stay would not serve the public interest.

In evaluating Sandoz's petition, FDA considered data bearing on the safety of the additive, including the safety of the various constituents of the additive. The polyamide-epichlorohydrin water-soluble thermosetting resins that constitute the food additive have not been found to induce cancer. However, the resins may contain trace amounts of a carcinogenic compound, epichlorohydrin which is used in the manufacture of the additive.

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless the data presented to FDA establish that the additive is safe for that use. The concept of safety embodied in this requirement was explained in the legislative history of the Food Additives Amendment of 1958. "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H.R. Rep. No. 2284, 85th Cong., 2d Sess. 1 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The Delaney anticancer clause of the Food Additives Amendment of 1958 (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive can be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to list a use of a food additive that contained or was suspected of containing minor amounts of a carcinogenic chemical, even if the additive as a whole has not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of food additives that contain a carcinogenic chemical but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though the color additive contains a carcinogenic constituent. Since that decision, FDA has approved the use of three such color additives, D&C Green No. 5 (47 FR 24278; June 4, 1982) and D&C Red No. 6 and D&C Red No. 7 (47 FR 57681; December 28, 1982), on the same basis. FDA fully explained the scientific, legal, and policy underpinnings for those decisions in the advance notice of proposed rulemaking on a policy for regulating carcinogenic chemicals in food and color additives, which was published in the **Federal Register** of April 2, 1982 (47 FR 14464). In brief, the agency believes that the Delaney anticancer clause is not triggered unless the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer but that contains a carcinogenic constituent may properly be evaluated under the general safety clause of the statute, using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, —— F.2d —— (Nos. 82–3544/3759) (6th Cir. February 23, 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which, as explained above, contains a carcinogenic chemical but has not itself been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

The agency calculated the upper bound limit of lifetime risk of cancer resulting from exposure to epichlorohydrin from the previously regulated uses of polyamide-epichlorohydrin water-soluble copolymer resins to be no more than 1.3×10^{-5}. Removing the upper viscosity limit for the polymer allows for a higher molecular weight copolymer, which is more efficient as a retention aid for paper and paperboard. FDA concludes that a higher molecular weight copolymer is not likely to contain any more epichlorohydrin monomer than the copolymer resin with the lower viscosity. The upper bound risk estimate for the lower viscosity resin was based on the conservative assumption that all uncoated paper was treated with the resin. Therefore, FDA concludes that the decision to allow a higher viscosity resin

would not increase the exposure to epichlorohydrin monomer from that previously assumed.

The agency has not performed a risk estimate for all food exposure to epichlorohydrin because it does not have, nor could it reasonably obtain, adequate, reliable data on the total dietary exposure to epichlorohydrin from other regulated additives. Nonetheless, in this specific situation, despite its inability to cumulate exposure to the carcinogenic constituent, FDA still finds the use of polyamide-epichlorohydrin is safe. FDA has reached this conclusion for the following reasons: (1) The exposure to epichlorohydrin from the use of this retention aid is so small that it will not contribute significantly to the level of epichlorohydrin in the diet. (2) The agency regards the upper-bound limit of risk calculated for exposure to epichlorohydrin from use of polyamide-epichlorohydrin to be sufficiently low to assure safe use of this additive even with additional exposure to epichlorohydrin from other products. (3) The food additive regulation at issue does not approve a new additive; it merely changes the conditions of use of an already approved additive and does so in such a way as not to increase exposure to epichlorohydrin. Thus, the agency concludes that there is a reasonable certainty that no harm will result from the proposed removal of the upper viscosity limit.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection. Among the documents that the agency has relied upon are the following:

1. FAP 3B2856, Exhibit B, Appendix II, April 11, 1972.

2. FAP 3B2856, Exhibit B, August 9, 1973.

3. Memorandum: Organic and Additives Chemistry Branch to Petitions Control Branch; August 21, 1973; FAP 3B2856.

4. Memorandum: Food Additive and Animal Drug Chemistry Evaluation Branch to Petitions Control Branch; November 29, 1982; FAP 2B3622 estimated daily intake for epichlorohydrin.

5. Memorandum: Color and Cosmetics Evaluation Branch to Marcia Van Gemert, November 29, 1982; Risk estimation for epichlorohydrin.

6. Memorandum: Food Additives Evaluation Branch to Petitions Control Branch; December 16, 1982; FAP 2B3622.

7. Memorandum: Associate Director for Compliance, Bureau of Foods to Associate Commissioner for Regulatory Affairs, May 9, 1983; Amendment to § 176.170; FAP 2B3622.

List of Subjects in 21 CFR Part 176

Food additives; Food packaging; Paper and paperboard.

For convenience, FDA is republishing in its entirety the final regulation that appeared in the **Federal Register** of August 19, 1983. This clarification of the final rule does not amend the regulation in any way.

This clarification of the final rule is issued under the Federal Food, Drug, and Cosmetic Act.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Polyamide-epichlorohydrin water-soluble thermosetting resins [CAS Reg. No. 68583-79-9] prepared by reacting adipic acid with diethylenetriamine to form a basic polyamide and further reacting the polyamide with an epichlorohydrin and dimethylamine mixture such that the finished resins have a nitrogen content of 17.0 to 18.0 percent on a dry basis, and that a 30-percent-by-weight aqueous solution has a minimum viscosity of 350 centipoises at 20° C, as determined by a Brookfield viscometer using a No. 3 spindle at 30 r.p.m. (or equivalent method).	For use only under the following conditions: 1. As a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.12 percent by weight of dry paper or paperboard. 2. The finished paper or paperboard will be used in contact with food only of the types identified in paragraph (c) of this section, table 1, under types I and IV–B and under conditions of use described in paragraph (c) of this section, table 2, conditions of use F and G.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 2, 1984, submit to the Dockets Management Branch (address above), written objections thereto or submit additional information in support of previously filed objections and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 23, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-8556 Filed 3-27-84; 4:01 pm]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1601, 1610, 1611, and 1626

Provisional Revisions Necessitated by Reorganization of Field Office Structure

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission has recently approved a reorganization of its field office structure which will enable it to more efficiently administer and enforce the employment discrimination statutes for which it is responsible. There will now be three types of field office instead of two. This document amends the Commission's regulations to reflect this change.

DATES: This Final Rule is effective on April 1, 1984.

FOR FURTHER INFORMATION CONTACT: The Office of Legal Counsel, Legal Services, Nicholas M. Inzeo (634–6592) or Thomas J. Schlageter (634–6592).

List of Subjects

7 CFR Part 1601

Administrative practice and procedure.

7 CFR Part 1610

Freedom of information.

7 CFR Part 1611

Privacy.

7 CFR Part 1626

Administrative practice and procedure.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

PART 1601—PROCEDURAL REGULATIONS

§ 1601.5 [Amended]

1. Section 1601.5 is amended by adding the following after the fourth sentence:

* * * The term "local office" shall mean an EEOC office with responsibility over a part of the United States within a district fixed by the Commission as a particular sub-unit of a district. The term "local director" shall refer to that person designated as the Commission's chief officer for the local office. * * *

2. Section 1601.5 is amended by adding "and local" after "area" in the next to the last sentence.

§ 1601.8 [Amended]

3. Section 1601.8 is amended by removing "district or area" and replacing it with "district, area or local".

4. Section 1601.8 is amended by removing "district" in the last sentence and replacing it with "field".

§§ 1601.10, 1601.14, 1601.20 and 1601.28 [Amended]

5. Sections 1601.10, 1601.14(b), 1601.20(a) and 1601.28(c) are amended by adding "Local Directors," after "Area Directors" wherever it appears.

§§ 1601.19 and 1601.24 [Amended]

6. Sections 1601.19(g) and 1601.24(b) are amended by adding "or Local Directors" after "Area Directors" wherever it appears.

§ 1601.21 [Amended]

7. The introductory paragraph of § 1601.21(d) is amended by adding "or Local Directors" after "Area Directors" in the first sentence.

8. The introductory paragraph of § 1601.21(d) is amended by substituting "Each" for "Such" in the next to the last sentence.

9. The introductory paragraph of § 1601.21(d) is amended by substituting "each Area Director and each Local Director" for "and each Area Director" in the last sentence.

§ 1601.28 [Amended]

10. Section 1601.28(a)(2) is amended by adding "the Local Director" after "the Area Director".

11. Section 1601.28(a)(3) is amended by inserting "Local Director;" after "Area Director" in the first sentence.

12. Section 1601.28(c) is amended by inserting "Local Directors," after "Area Directors".

PART 1610—AVAILABILITY OF RECORDS

§ 1610.4 [Amended]

13. Section 1610.4(b) is amended by removing "district and area" and replacing it with "district, area and local."

14. Section 1610.4(c) is amended by removing "District and Area" and replacing it with "District, Area and Local."

15. Section 1610.4(c) is amended by removing "Area" after "Buffalo", "El Paso," "Fresno," "Greensboro," "Greenville," "Minneapolis," "Oakland," "San Diego" and "San Jose" and replacing it with "Local."

16. Section 1610.4(c) is amended by substituting the below listed addresses for the following offices:

§ 1610.4 Public reference facilities and current index.

* * * * *

(c) * * *

Atlanta * * *, Citizens Trust Bank Building, 10th Floor, 75 Piedmont Avenue, NE., Atlanta, Georgia 30335

Baltimore * * *, 109 Market Place, Suite 4000, Baltimore, Maryland 21202

* * * * *

Boston * * *, J. F. Kennedy Federal Bldg., Room 409B, Boston, Massachusetts 02203

Buffalo * * *, 210 Franklin Street, Room 503, Buffalo, New York 14202

Charlotte * * *, 1301 East Morehead Street, Charlotte, North Carolina 28204

Chicago * * *, Federal Building, Room 930A, 536 South Clark Street, Chicago, Illinois 60605

* * * * *

Cleveland * * *, 1 Playhouse Square, 1375 Euclid Avenue, Cleveland, Ohio 44115

Dallas * * *, 1900 Pacific Building, 13th Floor, Dallas, Texas 75201

* * * * *

El Paso * * *, 1st National Building, Suite 1112, 109 North Oregon Street, El Paso, Texas 79903

* * * * *

Greensboro * * *, Post Office Building, 324 West Market Street, Room B27, Post Office Box 3363, Greensboro, North Carolina 27402

Greenville * * *, Bankers Trust Building, 7 North Laurens Street, Suite 1001, Greenville, South Carolina 29601

Houston * * *, 405 Main street, 6th Floor, Houston, Texas 77002

Indianapolis * * *, Federal Building, Room 456, 46 East Ohio Street, Indianapolis, Indiana 46205

Jackson * * *, New Federal Building, 100 West Capitol Street, Suite 721, Jackson, Mississippi 39269

Kansas City * * *, 911 Walnut Street, 10th Floor, Kansas City, Missouri 64106

Little Rock * * *, Savers Building, Room 621, 320 West Capitol Avenue, Little Rock, Arkansas 72201

* * * * *

Louisville * * *, U.S. Post Office and Courthouse, 601 West Broadway, Room 104, Louisville Kentucky 40202

* * * * *

Milwaukee * * *, Henry S. Reuss Federal Plaza, Suite 800, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203

Minneapolis * * *, Federal Building, Room 178, 110 South 4th Street, Minneapolis, Minnesota 55401

Nashville * * *, Parkway Towers, Suite 1820, Nashville, Tennessee 37219

Newark * * *, Military Park Building, 3d Floor, Newark, New Jersey 07102

* * * * *

New York * * *, 90 Church Street, Room 1501, New York, New York, 10007

Norfolk * * *, Federal Building, Room 412, 200 Granby Mall, Norfolk, Virginia 23510

* * * * *

Oklahoma City * * *, 50 Penn Place, Suite 504, Oklahoma City, Oklahoma 73118

* * * * *

Phoenix * * *, 135 North Second Avenue, 4th Floor, Phoenix, Arizona 85003

* * * * *

Raleigh * * *, Professional Bldg., Suite 500, 127 W. Hargett, Raleigh, North Carolina 27601

* * * * *

San Francisco * * *, 10 United Nations Plaza, 4th Floor, San Francisco, California 94102

* * * * *

St. Louis * * *, 625 North Euclid Street, 5th Floor, St. Louis, Missouri 63108

* * * * *

§ 1610.7 [Amended]

17. Section 1610.7(a) is amended by removing "district or area" from the first sentence and replacing it with "district, area of local office."

18. Section 1610.7(a)(1)–(3) is amended by removing "district or area" and replacing it with "district, area or local" wherever it appears.

PART 1611—PRIVACY ACT REGULATIONS

§ 1611.3 [Amended]

19. Section 1611.3(b)(1) is amended by removing "District or Area" and replacing it with "District, Area or Local," and by removing "29 CFR 1610.21(b)" and replacing it with "29 CFR 1610.4(c)."

PART 1626—PROCEDURES—AGE DISCRIMINATION IN EMPLOYMENT ACT

§ 1626.5 [Amended]

20. Section 1626.5 is amended by removing "District or Area" in the first sentence and replacing it with "District, Area or local" and by removing "District" in the second sentence and replacing it with "District, Area and Local."

[FR Doc. 84-8613 Filed 3-30-84; 8:45 am]
BILLING CODE 6570-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 947

Surface Mining and Reclamation Operations Under a Federal Program for Washington

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

ACTION: Responses to public comments on interim final rule.

SUMMARY: The Office of Surface Mining (OSM) is responding to public comments submitted regarding the interim final rule which promulgated a Federal surface coal mining program for Washington (48 FR 7078, February 24, 1983). The Secretary of the Interior has reviewed all comments, and no changes to the interm final rule were found to be necessary. Therefore, that rule remains effective as published on February 24, 1983 (48 FR 7078).

DATES: None.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of Interior, 1951 Constitution Ave., NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: On February 24, 1983, OSM promulgated a surface coal mining regulatory program for the State of Washington by means of an interim final rule, 48 FR 7870, pursuant to Section 504 of the Surface Mining Control and Reclamation Act (the Act), 30 U.S.C. 1254. The rule provided for a comment period of fifty days. OSM requested comments on how OSM's revisions to its permanent program rules at 30 CFR Chapter VII effected the interim final rule for Washington. The effective date of the program was to be April 25, 1983, but in response to several requests, OSM extended the comment period to April 28, 1983, and changed the affective date of the program to May 13, 1983 (48 FR 16058, April 14, 1983).

The Washington Irrigation and Development Company (WIDCO) brought suit on April 23, 1983, challenging the program, claiming principally that persons who would be required to file a permit application within two months of the effective date of the program were not given enough lead time to prepare the application. See *Washington Irrigation and Development Co.* v. *Watt, et al.*, No. C83–244T (U.S.D.C. E.D. Wash.). OSM met with the plaintiff's representatives on May 12 and 13, 1983, and the parties agreed to dismiss the action dependent upon OSM taking certain actions.

OSM published a notice in the **Federal Register** on May 13, 1983, announcing an effective date for the Washington program of May 16, 1983, and making several changes in the program rules in response both to public comments and to issues raised in the litigation. 48 FR 22292. Although OSM considered all public comments on the Washington program in its May 13, 1983, notice, it did not formally respond to all such comments because of the short period of time between the end of the extended comment period and the date of the notice. This notice, then, responds to the remaining unanswered comments on the interim final rule notice of February 24, 1983. The Secretary of the Interior has reviewed all comments, and no changes to the interim final rule were found to be necessary. Therefore, that rule remains effective as published on February 24, 1983 (48 FR 7078).

Six different persons or entities submitted comments, including comments from a prospective operator. Extensive comments were received from WIDCO. Two comments were submitted by individuals residing in King County who could be affected by operations of the prospective operator mentioned above. Weyerhaeuser Company, which owns a substantial amount of land in the State, some of which is underlain with coal, and the King County Department of Planning and Community Development, in which county a small operation is presently located and a moderate sized one is proposed, also submitted comments.

1. WIDCO took issue with the use of cross-referencing as a means of promulgating the Washington Federal Program. The company contented that the use of cross-referencing provides inadequate public notice, violates the Federal Program regulations at 30 CFR 736.12(a)(2) and the Administrative Procedure Act (5 U.S.C. 553), and causes uncertainty as to which rules comprise the program because of OSM's revision of its permanent program rules. Specifically, WIDCO stated that cross-referencing does not allow adequate consideration of differing regional conditions, that OSM has omitted certain applicable regulations from cross-referencing, and that cross-referencing does not allow for a necessary review period on amendments to permanent program rules as they affect cross-referenced Federal programs. The company urged a two step amendment process for Federal program rules: Amendment of the OSM permanent program rules followed by a separate rulemaking for a similar change to cross-referenced Federal programs.

This comment constitutes the principal grounds on which WIDCO brought suit. In settling the litigation, the parties agreed that for any proposed OSM rule revisions appearing in the **Federal Register** after the effective date of the program, OSM would follow the procedures in 30 CFR Part 736 for amending Federal programs. Further, for any proposed OSM rule revisions appearing in the **Federal Register** before the effective date of the Washington Federal program, no separate rulemaking would be necessary for amending the program if the final rule appeared in the **Federal Register** after the program effective date.

It is OSM's position that cross-referencing does provide adequate notice to the public under the Surface Mining Act and the Federal Administrative Procedure Act. It allows for adequate consideration of regional differences because changes to particular permanent program rules can be made in the cross-referencing

provisions of the Federal program. Further, 30 CFR 947.700(g), allows for specific modifications or variances from the permanent program rules based on local or regional conditions in Washington.

With the concurrent promulgation of the Federal program rules and revisions to the permanent program rules, confusion as to which rules form the Washington program could understandably result. However, OSM completed its permanent program rule revisions and promulgation of all Federal programs, all of which now utilize cross-referencing, on September 30, 1983, and obtained a delay from the Office of the Federal Register for the annual revision of Title 30 of the Code of Federal Regulations. When that edition is available, around July 1984, it will contain all of the permanent program rules, as revised, and all cross-referenced Federal program rules. Thus, all rules will be in one volume, readily available to any member of the public.

2. WIDCO raised several matters concerning the supersession of State law under 30 CFR 947.700(f). The commenter contended that OSM's regulations should be superseded when they are in conflict with State law even if the State law is less environmentally effective.

The Federal act and permanent program regulations set minimum standards for comparison with State law and regulations. If compliance with State laws or regulations would interfere with the purposes of the Federal program, then the State law and regulations are to be superseded pursuant to Section 504(g) of the Act. The Washington Surface Mining Act and implementing regulations establish standards which are less stringent than those in the Federal act and regulations (See Comment 3). Thus, if they establish performance standards that are less stringent than the Federal program, they will interfere with the accomplishment of the Federal program and must be superseded.

With respect to other State statutes and regulations which regulate aspects of surface coal mining and reclamation, there may be a need for supersession of a particular performance standard as a result of a conflict with one of the Federal program standards (30 CFR 947.700(e)(1)–(9). Such supersession is left to a case-by-case determination.

3. WIDCO urged that OSM complete a stringency analysis of the Federal and Washington State programs before superseding any State laws.

While OSM did not produce a formal document, it did conduct such analyses for all Federal programs. In this case, OSM has been unable to conclude that there is any provision of the Washington Surface Mining Act and regulations that establishes more stringent standards than the Federal program. Further, OSM sees no basis for superseding any other State law. *See* the discussion below under Comment no. 5.

4. WIDCO also stated that when OSM supersedes a State statute or regulation because of conflict with a Federal program standard, formal rulemaking is required rather than the mere publication of a notice of such action in the **Federal Register**.

OSM agrees and intends to conduct formal rulemaking in all supersession cases. OSM has used the formal rulemaking process to supersede a State statutory provision under Section 505(a) of the Act. *See* 48 FR 17071 (April 21, 1983) and 48 FR 46028 (October 11, 1983) involving the Virginia State regulatory program. Should a case arise when a provision of State law would have to be superseded, OSM must take the necessary steps of adequately informing the public and then of making the decision whether to supersede the law.

5. WIDCO pointed out that while generally the Washington Surface Mining Act, RCW 78–44, and implementing regulations, WAC 332–18, establish less stringent standards than the Federal program, confidentiality and bonding provisions are more stringent and should not be superseded.

OSM disagrees. The State bonding provisions are not as stringent as the Federal provisions. The commenter suggested that the annual bond modification in the State program establishes a more stringent standard than that in the Federal program. However, the revised Federal bonding regulations, 30 CFR Part 800 (July 19, 1983 48 FR 32932), provide for incremental bonding which could be done on an annual basis. *See* 30 CFR 800.11(b). Since 30 CFR 800 is cross-referenced in § 942.800 of the Federal program, no change in program is required.

With respect to confidentiality, RCW 78.44.180 provides that all reclamation plans, operators' reports, and other required information submitted to the State are for its confidential use. This provision is less stringent than Section 507(b)(17) of the Act, which requires information pertaining to coal seams, test borings, core samplings, or soil samples to be made available to any person with an interest that is or may be adversely affected, except that information pertaining to the analysis of the chemical contents of the coal shall be kept in confidence. OSM believes that the State confidentiality provision interferes with the achievement of the public disclosure and public participation purposes of the Act and the Federal program, and requires supersession.

6. Another commenter has sought OSM's determination that a King County ordinance requiring a grading permit interferes with the purposes of the Federal program and, consequently, should be superseded. The commenter contended that some of the ordinance's provisions sometime conflict with Federal requirements.

It is only when a State statute or regulation interferes with the achievement of the purposes and requirements of the Federal program that a State law may be superseded under Section 504(g) of the Act. A State law which is inconsistent with a provision of the Federal statute may be superseded under Section 505(a) of the Act. Review of the King County grading ordinance, §§ 16.82.010–16.82.140, does not indicate any interference or inconsistency with the Act or the Federal program. However, there may be duplication. The commenter has not pointed to any particular design criteria in the ordinance that conflict with the Federal requirements. In light of the detail of the Federal regulatory program, compliance with the county grading ordinance could be viewed as unnecessary. However, there is no basis for superseding it since it does not interfere with the Federal program. Here duplication is an insufficient basis for supersession.

7. King County, through its Department of Planning and Community Development, submitted a comment stating that its understanding was that unless local ordinances were less stringent than Federal standards, there would be no supersession.

OSM agrees. However, no local zoning ordinance other than the grading ordinance has been brought to OSM's attention. There is, at this time, no basis for superseding any local ordinances.

8. WIDCO urged revision of the variance provision of 30 CFR 947.900(g). Rather than granting the variance where necessary due to the unique conditions in the State and the achievement of equal or greater environmental protection, the commenter suggested simple consideration of consistency with Federal environmental protection requirement standards with no consideration of uniqueness.

In settlement of the litigation and in response to the comment, the parties agreed to revise the variance provision. In the final rule, published on May 18, 1983, OSM provided for the granting of a variance where: (1) It is necessary due

to the conditions in the area of the mine, and (2) the practice sanctioned by the variance will result in environmental protection provisions which are no less effective than the Federal regulations and consistent with the Act. It is incumbent on an applicant, however, to justify the granting of the variance in any particular instance.

9. WIDCO raised other questions in connection with the variance as proposed, including the meaning of the term "necessary," the procedures for the issuance of a variance, and the length of time a variance may last.

"Necessary" means that the practice is dictated by the particular environmental conditions, not simply economic conditions, although there may be economic benefits to the operator. The variance must be sought in the permit application or, if a condition arises during mining operations, in the permit revision process. The applicant has the burden of demonstrating that the variance is necessary due to the physical conditions in the mine area and that the variance, if granted, will produce a result which is no less effective than the Federal regulations and consistent with the Federal Act.

The practice sought to be approved through the variance need not be the only manner in which the practice can be accomplished, but it must be tied to the environmental conditions at the mine site and be demonstrated to be no less effective than the Federal standards. Such demonstration does not involve a showing of how the Federal standard may be unworkable. Rather it is a postitive showing of the necessity of the alternative for which the variance is sought. The OSM office which reviews the permit application will make the decision on the variance request. The justification for the variance must be made in the application. Should the variance not be granted, the applicant may appeal the decision to the Office of Hearings and Appeals pursuant to 43 CFR 4.1280. The information submitted in support of a requested variance is in lieu of the information required under the performance standard for which the variance is sought. Should the variance request not be granted, then the particular permit information would have to be furnished. A variance becomes a part of the permit once it is granted. Unless the permit specifies to the contrary, the variance lasts as long as the permit term and is subject to renewal in the same manner as a permit.

10. WIDCO also advocated that there be recognition of a need for a variance beyond the mine site.

In recognition of regional differences in the State of Washington, OSM modified the alluvial valley floor provisions in 30 CFR 947.701 and 947.842 to except the coal fields located in the State west of the crest of the Cascade mountain range. Those coal fields are not in an arid or semi-arid area. Therefore, operators in this area need not comply with the alluvial valley floor provisions.

11. WIDCO presented seven different situations in which it might request a variance, including the construction of roads without removal of vegetative mats. The commenter has sought seven such variances in its permit application.

OSM believes it is inappropriate at this time to comment on these seven instances since WIDCO is seeking these variances through the permitting process and OSM has no decisions thereon.

12. Another commenter asked whether a proposed postmining land use to develop a new lake and wetlands and to develop a new city park should be treated as a request for a variance under 30 CFR 947.700(g). A permit application has been submitted in which a final cut lake is proposed.

OSM will consider the reclamation plan indicating the final cut lake and wetlands as a request for a variance, and make its decision in the course of the permitting process.

13. WIDCO advocated an addition to the definition of the term "agricultural use" to include "forest practices" as defined in Washington Administrative Code 222-16-010(19), and the inclusion of an exception for agricultural use in the term "disturbed area." Another commenter advocated a clear separation of the regulation of surface mining under the Federal program and forest practices pursuant to the Washington Forest Practices Act, Revised Code of Washington Chapter 76.009, and the Forest Practice Act rules and regulations, Title 222 of the Washington Administration Code.

The adoption of these comments would preclude OSM jurisdiction under the law of Washington during the time such forest practices occur. There is a clear overlap in at least one activity that may constitute both a forest practice and a surface mining activity: road construction. Road and trail construction is included in the definition of the term "forest practices" in WAC 22-16-010(19), and road building standards are set in 30 CFR 816.150 and 817.150 (*See* 48 FR 22110, May 16, 1983). Thus, what the commenters seek is either a relinquishment of jurisdiction to the State when activities falling under the definition of "forest practices" are involved, or the supersession of any such exercise of jurisdiction by the State. Rather than set a clear demarcation between Washington State jurisdiction under the Forest Practices Act and OSM jurisdiction, OSM has opted to defer to the State's regulation under the Forest Practices Act, yet retain the authority to exercise its jurisdiction should an instance arise in which there is a clear environmental consequence prohibited by surface mining standards, which appears to be permitted under the forest practices regulations. The settlement agreement in the litigation indicated above contains the following provision: "The Federal officials agree that the term 'surface coal mining operations' shall exclude activities which are forest practices under the Washington Forest Practices Act and regulations, except to the extent that they constitute surface coal mining operations under 30 CFR 700.5."

OSM recognizes that the Washington Forest Practices Act is one of the most stringent State statutes regulating such practices. 13 Natural Resources Lawyer 421, 432 (1980). It addresses a broad array of forest management activities.

However, the statute is limited to forest management activity. No State forest practices statute regulates all activities that may take place within the forest boundaries such as surface mining. *Id.* at 428. Therefore, OSM may not completely defer to the State's exercise of jurisdiction under the Forest Practices Act.

14. One commenter has requested that records and permit application information be made available to the public at the local, county, or municipal level.

The revised permit application public participation requirements at 30 CFR 773.13(a)(2) (48 FR 44393, September 28, 1983), require an applicant to make a copy of such information available by filing the same with the recorder at the courthouse of the county where the mining is to occur.

The interim final rule at 30 CFR 947.701(c) has a provision requiring the retention of such records at the county recorder's office of the county in which the operation is located and at the nearest OSM Field Office. That section cites 30 CFR 701.14, which should be 30 CFR 700.14, the availability of records provision. OSM will correct the citations in a later **Federal Register** notice.

15. WIDCO raised several questions concerning the Federal and State permit coordination process. It questioned the rejection in the interim final rule of an implementation task force.

OSM decided against an implementation task force because there are only two existing and one proposed surface mining operations in the State. Three permit reviews, two of which would be for small operators less than 100,000 tons of coal per year, do not warrant the creation of a task force. OSM does not expect circumstances to change which would warrant the creation of such a task force. Further, OSM has coordinated with two States agencies, the departments of Ecology and Natural Resources. OSM and the two State agencies have designated contact persons who will manage the State review of permit applications.

16. WIDCO also raised questions about the lead OSM office for the Federal program conducting inspections and permit application review.

OSM's Casper Field Office located in Mills, Wyoming, has the responsibility for implementation of the Washington Federal program, including inspections. OSM has also established a sub-field office in Olympia, Washington. The OSM Western Technical Center in Denver, Colorado has the lead responsibility for the review of permit applications.

17. The King County Department of Planning and Community Development asked what process OSM will use to coordinate other Federal and State permits.

OSM will coordinate, as explained above, through the two persons serving as liaison between OSM and the two State agencies.

18. WIDCO raised a concern about the air quality monitoring requirement found at 30 CFR 947.780 of the Washington Federal program and, in particular, the requirement in 30 CFR 780.15(a) that surface mining operations producing more than 1 million tons of coal per year west of the 100th west longitude devise an air pollution control plan. The commenter claimed that surface mining operations west of the crest of the Cascades produce no fugitive dust and, therefore, meet air quality standards because of the wet climate. Thus, an air quality monitoring plan is unnecessary.

The **Federal Register** notice announcing the program effective date accepts compliance with 30 CFR 780.15(a). A surface coal mining operation in Washington producing one million tons of coal or more per year need not provide an air quality monitoring program unless the regulatory authority requires one. *See* also the response to the following comment.

19. The King County Department of Planning and Community Development commented on the air quality control provisions of the Program. It objected to the exemption of mines producing one million tons per year from compliance with local air pollution requirements.

As stated above in response to comment No. 18, a surface coal mining operation producing one million tons or more per year of coal need not automatically submit an air quality monitoring program nor a plan for fugitive dust control. Under 30 CFR 780.15(b), OSM has the discretion to require a monitoring program if it determines one is necessary. However, OSM's authority to regulate air quality is limited to that pollution produced as a result of erosion. *See In re: Permanent Surfacing Mining Regulation Litigation*, No. 79–1144 (U.S.D.C., D.C.), Memorandum opinion filed May 16, 1980, at p. 28.

On the other hand, OSM is not superseding any Washington State laws regulating air quality control. Both 30 CFR 947.780(b) and 947.784(b) mandate specific demonstration of compliance with local air pollution control requirements and the Washington Clean Air Act if production of coal exceeds one million tons per year. Further, an operation of King County which meets the definition of a new air contaminate source must obtain a notice of construction from the Puget Sound Air Pollution Control Agency.

However, only a mine producing one million tons or more per year should provide a copy of that notice to OSM under 30 CFR 947.780(b).

20. The company proposing to open a small mine in King County commented that OSM should become a joint lead agency with King County in the issuance of the final Environmental Impact Statement (EIS)—one which will suffice under the State Environmental Policy Act and the National Environmental Policy Act (NEPA), 42 U.S.C. 4332(C). This action would expedite the permitting process and avoid duplication of State and Federal requirements.

Implementation of the program came too late to have joint lead agencies. OSM has determined that the EIS prepared by King County is not adequate for NEPA compliance. Therefore, separate Federal NEPA compliance is necessary.

21. WIDCO pointed out the difficulty of complying with bonding requirements which OSM proposed to change, but for which no final rulemaking notice had appeared by the close of the final comment period on the Washington Federal Program. OSM had proposed to cross-reference only 30 CFR 800 since that was the only part which the revised OSM bonding rules would use, while the other parts, 801, 805, 806, 807, and 808, were still in effect.

The final rulemaking notice on the bonding rules appeared on July 19, 1983, at 48 FR 32932. The final rulemaking notice for the self-bonding rules appeared on August 10, 1983 at 48 FR 36418. Thus, all of the bonding rules are now located in 30 CFR 800, and are in effect in the Washington Federal program through cross-referencing.

22. WIDCO questioned OSM's decision not to except the area west of the crest of the Cascade Mountain range from the alluvial valley floor requirements. The alluvial valley floor provisions of the Act and regulations apply to the region west of the 100th meridian on the presumption that those lands are in arid and semi-arid areas. The Weyerhaeuser Company also questioned the inclusion of the alluvial valley floor requirements for the area west of the crest of the Cascade Mountains. In the company's view, the average annual rainfall, which is almost 60 inches per year, dictates the removal of the area from the alluvial valley floor requirements.

The May 18, 1983, **Federal Register** notice made two changes in the program with respect to alluvial valley floors, which satisfy the commenters' concerns. The definition in 30 CFR 947.701(b)(1) of the term "arid and semi-arid area" excepts the coal fields in the State west of the crest of the Cascade Mountains. The cross-reference in 30 CFR 947.822 to the alluvial valley floor performance standards also added the same exception.

23. An individual commented that the enforcement part of the Washington program should have more provisions to force operators to pay fines, and should provide that no new permits be issued to operators with outstanding penalties.

OSM's former rule at 30 CFR 786.17(c) prohibited the regulatory authority from issuing a permit to an operator who had an outstanding violation of any Federal or State law, rule, or regulation pertaining to air or water environmental protection, unless the violation had been corrected or was in the process of review either administratively or judicially. OSM has revised the provision but has retained the same substantive prohibition in 30 CFR 773.15(b) (48 FR 44394, September 28, 1983).

24. Another individual commenter asked whether copies of each inspection report could be made available at the local planning agency.

30 CFR 947.842 and 947.843 require that OSM furnish a copy of each enforcement action to the local planning

department of the county government of the county where the operation is located. Such enforcement action includes the inspection report.

25. WIDCO pointed out that OSM must develop a blaster training, examination, and certification program. The revised blaster rules, 30 CFR Parts 816, 817 and 850 (48 FR 9486, March 4, 1983), require the regulatory authority to develop such a program. The commenter urged OSM to develop such a program in consultation with a number of other Federal agencies and other interested parties.

OSM has begun the development of a blaster program. It will consult with other governmental agencies having a interest in the program during its development.

26. An operator asked about permit fees, when will they be established, and the amount of such fees.

OSM has not yet proposed a Federal program permit fee schedule. The proposed rulemaking notice may appear in the next several months. However, OSM will not require payment of such a fee until promulgation of the rule. Even though a fee will not be assessed or payable until the final fee-schedule rule is effective, an operator may receive a permit prior to the rule's effective date.

27. WIDCO commented that the Washington, Surface Mining Act is not superseded with respect to bonding requirements on areas under State permit prior to the implementation of the permanent program performance standards and the posting of a bond under the Federal program.

The commenter is correct that the State can continue to require a bond under its law for areas under State permit which would not be a part of the permit area under the Federal program. Thus, the State could forfeit a bond on an area for which a bond was posted under the State statute as long as that area is not within a Federal program permit area. Once OSM has made the decision to issue a permit and the operator has posted bond under that permit, the State bonding requirement would be superseded and the bond payable to the State would no longer be required. However, the operator could change the payee of any such bond from the State to the United States and adjust the bond amount, if necessary.

28. WIDCO requested guidance for a significant departure which would require a revision to a permit. It pointed out that a surface mine which supplies an electric generating plant has a variable production rate in the northwest depending on the availability of hydropower. Thus, operators have to vary their production levels, often significantly.

A change in the rate of production would not require a revision to the permit as long there is no deviation from the mining and reclamation plan. However, if there is a change in the steps indicated in the mining and reclamation plan, a permit revision is required. The revised permit revision rules, 30 CFR Part 774, indicate that revision is necessary when there is a change in any of the permit application information. (48 FR 44396, September 28, 1983). Pursuant to 30 CFR Part 774.13(b)(2), if the revision is a significant one, additional requirements and procedures are required.

Carl C. Close,

Assistant Director, Program Operations and Inspections.

[FR Doc. 84-8712 Filed 3-30-84; 8:45 am]

BILLING CODE 4310-05-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 80-2]

Compulsory License for Cable Systems

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting amendments to 37 CFR 201.11 and 201.17, as amended through final regulations on June 27, 1978, and July 3, 1980, and through interim regulations on May 20, 1982. These regulations implement portions of section 111 of the Copyright Act of 1976, title 17 of the United States Code. That section prescribes conditions under which cable systems may obtain a compulsory license to retransmit copyrighted works, including the filing of Notices of Identity and Signal Carriage Complement and Statements of Account, and the submission of statutory royalty fees. The amendments revise or clarify certain requirements governing the form and content of such Notices and Statements.

EFFECTIVE DATES: June 1, 1984. Written comments on the specific language of the regulations should be received on or before May 2, 1984.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail, to: Library of Congress, Department D.S., Washington, D.C. 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287-8380.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Copyright Act of 1976 (Act of October 19, 1976, 90 Stat. 2541) establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to various conditions, including the requirements that the cable systems comply with provisions regarding recordation of Notices of Identity and Signal Carriage Complement and Notices of Change of Identity or Signal Carriage Complement under section 111(d)(1), and deposit of Statements of Account and statutory royalty fees under section 111(d)(2).

On June 27, 1978, the Copyright Office announced in the **Federal Register** (43 FR 27827) the adoption of Statement of Account forms and published amendments to its regulations (37 CFR 201.17) to reflect changes necessitated by the new forms.

Further experience with these regulations led the Copyright Office to publish in the **Federal Register** on July 3, 1980 (45 FR 45270) certain clarifying and technical amendments to its regulations (37 CFR 201.17) governing the form, content, and filing of Statements of Account.

During the July 3, 1980, rulemaking proceeding, the Copyright Office received several comments suggesting substantive revisions to the regulations and Statement of Account forms (45 CFR 45273):

> Based on their experience reviewing the Statements of Account submitted during the first three accounting periods, copyright owners noted in their comments particular areas where they feel further information and/or clarifications are needed. These areas principally concern the designation of local and distant stations, classification of Canadian and Mexican stations, and problems resulting from the filings submitted on behalf of joint "individual" cable systems. In addition, some copyright owners proposed changes that they contend would streamline the royalty calculation steps required on forms CS/SA-2 and CS/SA-3.
>
> Comments on behalf of the cable operators, on the other hand, suggested that a good deal of the information required on the Statement of Account for the purpose of assisting

copyright owners and the Copyright Royalty Tribunal in the distribution of cable royalties is, in fact, unnecessary. They also advocated a review of our definition of "gross receipts for the 'basic service of providing secondary transmission of primary broadcast transmitters' " based on recent technological advances and new marketing strategies affecting the types of services now available for a single monthly fee.

Although these issues were outside the scope of the rulemaking, the Copyright Office stated its belief "that some of these developments do warrant a review of our cable regulations and Statement of Account forms at an appropriate time" (45 CFR 45273).

Subsequently, several administrative actions were taken, or judicial decisions rendered, affecting the cable television compulsory license mechanism.[1]

The Copyright Office decided that these administrative determinations warranted attention and might provide an adequate basis for a review of the cable television regulations and Statement of Account forms. To this end, the Copyright Office, on June 10, 1981, published in the **Federal Register** (46 FR 30649) a Notice of Public Hearing to be held on July 28, 1981, intended to elicit comments, views, and information regarding these matters.

During the public hearing, the Copyright Office received testimony and written submissions from two cable television operators and representatives of the Motion Picture Association of America (MPAA), the National Cable Television Association (NCTA), and professional sports. The Copyright Office also received written comments from other interested parties in response to the Notice of Public Hearing. Because the Commission's actions had an immediate impact on the responsibility of cable systems under the copyright compulsory license, the Office decided to publish in the **Federal Register** (47 FR 21786) regulations concerning this impact effective May 20, 1982, on an interim basis.[2]

At that time, the Office also announced that proposed regulations pertaining to the other issues addressed during the Office's July 1981 public hearing would be forthcoming. Initially, the Office believed only a few months would elapse before publication of proposed rules. On October 20, 1982, however, the Copyright Royalty Tribunal adopted a final rule in CRT Docket No. 81–2 (published at 47 FR 52146 on November 19, 1982). By this rule, the Tribunal made two types of cable royalty rate adjustments [3] and set January 1, 1983, as the effective date for both. Both rate adjustments were appealed to the U.S. Court of Appeals for the D.C. Circuit (which upheld the Tribunal's rate determination on December 30, 1983).[4]

In December 1982, Congress, as part of an appropriations measure, imposed a bar on the expenditure of funds to implement the 3.75% portion of the rate adjustment until final decision by the Court of Appeals or until March 15, 1983, whichever occurred first.[5]

In late 1982 and early 1983, the Copyright Office received numerous requests for advice or interpretive rulings regarding the 1982 cable rate adjustment. Our urgent guidance was requested before March 15, 1983, the expiration of the legislative stay. The Office published a Notice of Inquiry, Docket No. RM 83–3 (48 FR 6372; February 11, 1983), in which we[6] summarized the issues presented to us for guidance and requested comment. Based upon our preliminary analysis of the issues and the comment letters, the Office issued a letter of opinion on March 11, 1983 (published at 48 FR 13166; March 30, 1983) in which we expressed tentative, limited views about intepretation of the 3.75% portion of the rate adjustment.[6]

During this same period, the National Cable Television Association formally requested that the Office act immediately on two issues covered by this rulemaking, on the ground that these issues were now critical in light of the CRT's 1982 cable rate adjustment. ("Petition for Expedited Action"; February 3, 1983.) The two issues identified were: computation of the cable royalty fees affected by: (1) Addition or replacement of a regularly carried distant signal in the middle of an accounting period and (2) carriage of a distant broadcast signal on a tier with non-broadcast services for a single fee—the so-called "tiering" issue.[7]

The Office believes that its position regarding the first issue was made clear in the interim rules issued May 20, 1982 (47 FR at 21786), and this view was repeated in letters of opinion from the Office to the NCTA on December 27, 1982,[8] and December 30, 1982. In our

---

[1] On September 11, 1980, the Federal Communications Commission (FCC) published in the **Federal Register** (45 FR 60186) its decision to remove the cable television distant signal limitations and syndicated program exclusivity rules from the FCC regulations. The Court of Appeals for the Second Circuit upheld the authority of the FCC to repeal these rules in *Malrite* v. *FCC*, 652 F.2d 1140 (2d Cir. 1981), and the Supreme Court on January 11, 1982, denied a petition for certiorari on this issue in *National Association of Broadcasters* v. *FCC*, 102 S.Ct. 1002 (1982).

On September 23, 1980, the Copyright Royalty Tribunal published in the **Federal Register** (45 FR 63026) its determination of the 1978 cable royalty distribution. The Court of Appeals for the D.C. Circuit generally upheld the Tribunal's royalty distribution in *NAB* v. *CRT, et al.*, No. 80–2273 (D.C. Cir. April 9, 1982); *NPR* v. *CRT, et al.*, No. 80–2281 (D.C. Cir. April 9, 1982); *Major League Baseball, NBA, NHL and NASL* v. *CRT, et al.*, No. 80–2284 (D.C. Cir. April 9, 1982); *CBS* v. *CRT, et al.*, No. 80–2290 (D.C. Cir. April 9, 1982); and *ASCAP* v. *CRT, et al.*, No. 80–2298 (D.C. April 9, 1982). On January 5, 1981, the Copyright Royalty Tribunal published in the **Federal Register** (46 FR 892) its first adjustment of the compulsory license royalty rates (the "1981 inflationary" rate adjustment). This determination was upheld on appeal by the Court of Appeals for the D.C. Circuit, *NCTA* v. *CRT*, 689 F.2d 1077 (1982), and the Copyright Office subsequently implemented the rate adjustment.

[2] The interim rules are clearly interpretive, as noted in a footnote, 47 FR 21788. Moreover, since the Copyright Office considered it prudent to wait until the Supreme Court acted on the petition for certiorari in the *Malrite* case, before the Office issued any interpretation of the impact of the FCC's 1980 deregulation order on cable system Statement of Account filings, it was necessary to act on an interim basis in order to give cable systems guidance for the then current accounting period. (We refer to the first half of 1982; the Surpreme Court denial of certiorari was handed down on January 11, 1982.)

[3] One adjustment is a "surcharge" on certain distant signals to compensate copyright owners for the carriage of syndicated programming formerly prohibited by the FCC's syndicated exclusivity rules in effect on June 24, 1981 (former 47 CFR 76.151 et seq.) ("syndicated exclusivity surcharge"). The second adjustment raised the royalty rate to 3.75% of gross receipts per additional distant signal equivalent (DSE) with respect to carriage of distant signals not generally permitted to be carried under the FCC's distant signal rules prior to June 25, 1981. Under the Tribunal's initial order, both rates were to be effective on January 1, 1983.

[4] The Court of Appeals affirmed the Tribunal's rate adjustment in all respects. *NCTA, Inc.* v. *Copyright Royalty Tribunal*, No. 82–2389 (D.C. Court of Appeals, December 30, 1983). In a Statement of Views concerning the 1982 cable rate adjustment, the Office noted that we would not take affirmative steps to implement the rate adjustment pending a final decision of the Court of Appeals. 48 FR 13166. *See infra.* The Office is now in the process of developing procedures, forms, and policies to implement the rate adjustment.

[5] Section 143 of House Joint Resolution 631, Pub. L. 97–377. In fact, the legislative stay expired on March 15, 1983, since the decision of the Court of Appeals was rendered on December 30, 1983.

[6] The issues addressed in Docket No. 83–3 and rules concerning implementation of the Tribunal's 1982 cable rate adjustment will be taken up in a separate proceeding. As the Office noted in the March 1983 Statement of Views, the comment letters received in February 1983 will be considered now in implementing the cable rate adjustment.

[7] The Motion Picture Association of America and the Professional Sports Leagues, while differing with NCTA on the merits, also asked the Office to issue regulations on the tiering issue.

[8] In our December 27, 1982 letter, we said, at page 2: "[W]e have concluded, for reasons hereafter given, that royalty fees must be paid, at least at the current rates, for any affected distant signal carried during any part of the accounting period January–June 1983 as if it were carried for the entire accounting period." Published in the Copyright Office Notice of Inquiry, 48 FR at 6372.

opinion, proration of the DSE value defined by 17 U.S.C. 111(f) is permitted only in the specific cases set forth in the definition of the DSE value. Except as expressly permitted by the DSE definition, partial carriage of a signal at any time during a given accounting period must be computed at full value for that type of signal, as though the signal were carried the entire accounting period.[9]

As discussed below, with respect to the "tiering" issue, the Office has taken a position as part of practices adopted in examining Statements of Account that allocation of gross receipts is not expressly permitted by the Copyright Act. Some have interpreted the Office's definition of "gross receipts," in effect since 1978, as a regulatory position on the "tiering" issue. The issue is now addressed fully in this proceeding.

In response to letters from motion picture copyright owners regarding the "tiering" issue and compliance with the compulsory license, a cable system, Cablevision Systems Development Company, brought an action for declaratory judgment in June 1983 against the Motion Picture Association of America, Inc. and its eight-member motion picture production companies. *Cablevision Systems Development Company* v. *Motion Picture Association of America, et al.* Civ. No. 83–1655 (D.D.C., filed June 8, 1983). The complaint generally seeks an adjudication that 17 U.S.C. 111 permits a cable system to allocate gross receipts in some way to reflect the "tiering" practices of cable systems. The defendants have counterclaimed for copyright infringement.

In September 1983, the NCTA also filed an action in the federal court for the District of Columbia, seeking a declaratory judgment regarding the "tiering" issue. *NCTA, Inc.* v. *Columbia Industries, Inc., et al.*, Civ. No. 83–2785 (D.D.C., filed September 21, 1983).

Finally, with respect to the "tiering" issue, a Petition for Adoption of Rule was filed on December 9, 1983, on behalf of the "professional sports leagues" (Major Leagues Baseball, the National Basketball Association, the National Hockey League, and the North American Soccer League). The Petition requested that the Office terminate RM 80–2 by adopting a rule "consistent with, and indeed mandated by, the language and legislative history of the Copyright Act, prior Copyright Office rulings and sound policy considerations." (Petition of Major League Baseball, et al., at 6). The NCTA, Cablevision, and a law firm filed comments opposing adoption of rule by the Copyright Office relating to the "tiering" issue on the general ground that the issue is now before the courts and the Office cannot, in any event, decide the matter finally since definitive interpretation of a statute is the province of the courts.

As noted, the Office has decided to address the "tiering" issue in this proceeding. On this issue specifically, the rule is interpretive. While the courts will determine the correct interpretation of the Act and the Copyright Office will welcome the guidance of the courts on "tiering" and other issues, the Office finds no justification for further delay in specifically addressing in regulations and important issue that continues to affect the filing of Statements of Account. At one time or another, the major interests affected by the compulsory license (cable systems and copyright owners) have asked the Office to "take a position" (cable systems generally) or "confirm a position" (copyright owners generally) regarding "tiering." Interpretation of the Act for purposes of administering the compulsory license of 17 U.S.C. 111 is within the authority of the Copyright Office—*e.g.*, to develop forms, practices, and policies. The statement in Copyright Office regulations at 37 CFR 201.2(a)(iv) that the Office does not give "legal opinions or advice" regarding the "sufficiency, extent or scope of compliance with the copyright law" has been interpreted and applied by the Office to mean that is will not act as a lawyer for members of the general public. The Office does not give *specific* advice whether certain conduct actually constitutes copyright infringement. With respect to administration of the Copyright Act in general and the compulsory licenses in particular, the Copyright Office must and does, however, interpret the Act. In appropriate cases, courts have accorded weight to Office interpretations.[10] The courts, of course, are the final arbiters of what the law means.

After careful consideration of all the hearing testimony and written comments, the Copyright Office now has decided to adopt several amendments to the cable regulations and changes in the Statement of Account forms. A discussion of the amendments and major substantive comments appears below.

1. *Proration of DSE's.* Paragraph (f) of section 111 of the Copyright Act sets forth the definition of "distant signal equivalent" (DSE), which has been incorporated by reference in § 201.17(f) of the Copyright Office regulations. The DSE is the value assigned to the secondary transmission of any nonnetwork television programming carried by a cable system, in whole or in part, beyond the local service area of the primary transmitter of such programming. Cable systems that complete Statement of Account form CS/SA–3 compute their statutory royalty payments on the basis of their total number of DSE's.

Under the compulsory license, each year is divided into two semi-annual accounting periods: January 1 through June 30, and July 1 through December 31. Ordinarily, the DSE of a distant television station carried full time for an entire accounting period is that station's full type value—that is, either 1.0 for an independent station, or .25 for a network or noncommercial educational station. Cable systems and their representatives have frequently questioned the appropriate calculation of the DSE value when a station is carried for an entire broadcast day during an accounting period, but is not carried every day of the period.

The Office has rejected similar if not identical proration arguments in past rulemaking proceedings. (45 FR 45270; July 30, 1980, which established 37 CFR 201.17(f)(3).) Nevertheless, responsive to the requests of cable systems, the Office sought testimony and comments specifically on whether "a cable system should be permitted to make a prorated adjustment to the full DSE value of a distant television station added, deleted or carried on a part-time basis during an accounting period if that station is also carried full time during any portion of that accounting period?"

Representatives from the cable industry maintained the compulsory license mechanism is sufficiently flexible to enable a cable system to prorate the ordinary DSE value in any of the above circumstances to reflect actual carriage. Furthermore, they asserted that the statutory division of

[9] The central question of the NCTA, to which the Office responded in December 1982, was "whether an affected television station which is dropped prior to March 15 (the expiration of the legislative stay) must be paid for through March 15 or through June 30." The Office responded that, in light of the meager legislative history concerning Section 143 of the H.S. Resolution 631, we were unable to conclude that a modification of our existing non-proration regulation was intended. Therefore, payment must be made for the entire accounting period, but different rates apply before and after March 15, 1983.

[10] *Mazer v. Stein*, 347 U.S. 201, 211–213 (1954); *DeSylva v. Ballentine*, 351 U.S. 570, 577–78 (1955); *Norris Industries, Inc. v. International Telephone and Telegraph Corp. and Ladd*, 696 F.2d 918 (11th Cir. 1983), *cert. denied*, 52 U.S.L.W. 3262 (U.S. Oct. 4, 1983); *Esquire, Inc. v. Ringer*, 591 F.2d 796, 801–02 (D.C. Cir. 1978); *Eltra Corp. v. Ringer*, 579 F.2d 294, 298–99 (4th Cir. 1978).

the year into two accounting periods is merely procedural for purposes of royalty and Statement of Account submissions and is not a substantive element or condition of the compulsory license. The cable industry representatives suggested that a strict interpretation of this provision would result in an unjustified windfall to copyright proprietors.

Representatives of the program supply industry, on the other hand, noted that the statute itself specifies only a few, narrow instances where DSE proration is permissible and that all other types of limited carriage must be computed as full time carriage.

After careful consideration, the Copyright Office once more confirms its interpretation that proration of DSE's is not permitted under 17 U.S.C. 111 except in the specific cases included in the DSE definition in section 111(f). The statute, therefore, requires the computation of the DSE value on the basis of full-time carriage [11] in the above-mentioned circumstances irrespective of the amount of actual carriage during the accounting period. The Office finds no basis in the Copyright Act or its legislative history for a departure from the views expressed at 45 FR 45271–2. In sum, actual carriage is not the sole basis for computation of cable copyright royalties;[12] "distant signal equivalent" is a phrase which was uniquely crafted and defined in the Copyright Act; and the brief references to proration in the legislative committee reports confirm that proration would be permissible only in the cases specially defined in the statute. H.R. Rept. No. 1476, 94th Cong., 2d Sess. 100 (1976). Section 111(d)(2)(B), moreover, in part requires the computation of a "*total* royalty fee for the *period covered by the statement*" (emphasis added). The Copyright Office believes that this language illustrates that the division of each year into two separate accounting periods represents a substantive element of the compulsory license mechanism which we have no statutory authority to alter. In an effort to clarify this point further with respect to the appropriate calculation of DSE's, the Copyright Office is amending § 201.17(f) by adding a new subsection (2)(A) to read as follows:

(2)(A) Where a cable system carries a primary transmitter on a full-time basis during any portion of an accounting period, the system shall compute a DSE for that primary transmitter as if it was carried full-time during the entire accounting period.

2. *Multiple part time carriage.* The "distant signal equivalent" value can be prorated in the case of lack of activated channel capacity, and in the case of permissive substitution for programming primarily of interest to the distant community. These bases for proration of DSE's are unaffected by the FCC deregulation effective June 25, 1981.

In its comments to the Copyright Office rulemaking proceeding under Docket No. 79–4 (regulations issued July 3, 1980), the MPAA raised questions concerning the appropriate total DSE value to be assigned where two or more distant television stations having different DSE type values are carried part time on any one cable channel during an acounting period. The MPAA advocated that in this circumstance, a cable system should be required to set the total DSE values for those stations at not less than full value of the signal carried most frequently during the accounting period.[13] In support of this position, the MPAA noted that it is illogical to suggest that Congress intended to require cable systems to pay the value of a full DSE for full-time carriage of one signal, but some lesser value if the same amount of programming is delivered to the cable subscriber from two or more part-time signals with different DSE type values.

Comments submitted on behalf of three multi-system operators (MSO's) opposed the MPAA position. They asserted that the treatment of multiple stations carried part time on a single channel should be consistent with the treatment of any single station carried on a part-time basis.

The Copyright Office has emphasized its inability to alter the clear and unambiguous statutory definition of "distant signal equivalent":

> We cannot emphasize too strongly that the "distant signal equivalent" is a statutory definition, and one which was created *sui generis* in the Copyright Act. The Copyright Office was not given any authority by Congress to elaborate on this definition. General principles of statutory construction require that clear and unambiguous definitions, and provisos contained in and limiting the operative effect of definitions, shall be given controlling effect. This is especially true where the term or phrase was created by the very statute in which it appears. Thus, if the Copyright Office should attempt to modify this statutory definition, there is no other body of law to which we could look for guidance. (45 FR 45271)

Because the DSE definition does not *require* the accumulation of part-time DSE values based on lack of activated channel capacity to equal, at a minimum, the full DSE value of the part-time station most frequently carried, the Copyright Office does not believe it has the authority to impose such requirement by regulation.

3. *Classification of Canadian, Mexican, and Specialty television stations.* Although the cable compulsory license principally concerns the retransmission of domestic signals, section 111(c)(4) extends the compulsory license to the retransmission of Mexican and Canadian signals by "grandfathered" U.S. cable systems and by U.S. cable systems located within the limited border zones of Mexico and Canada respectively. As part of its comments to Docket No. RM 79–4, the MPAA questioned the validity of form CS/SA–3 filings which classify carriage of Canadian television stations as "network" stations and assign to them a DSE value of one-quarter. Because of its significance in the royalty calculation process, the Office sought testimony during the July 1981 hearing as to whether Canadian and Mexican

---

[11] By "full-time carriage" the Office means carriage in excess of the partial or limited carriage for which proration is specifically allowed in the DSE definition.

[12] The NCTA at the July 28, 1981, public hearing and in briefs submitted to the D.C. Court of Appeals in *NCTA* v. *Columbia Pictures Industries*, Civ. No. 83–2785, D.D.C. Sept. 21, 1983 (made part of this record by NCTA's submission of December 22, 1983) argued that payment of royalties based upon the amount of amount of actual use is a basic principle of copyright law. In support of that argument, NCTA cites *Sheldon* v. *M-G-M*, 81 F.2d 49 (2nd Cir. 1936) *aff'd.* 309 U.S. 390 (1940). The Copyright Office finds no support for this proposition in copyright law generally and certainly not in the *Sheldon* case. *Sheldon* applied the patent rule of apportionment of profits attributable to the infringment. The case does not affect actual damages or statutory damages; it certainly does not purport to confirm a principle that the copyright owner may expect compensation based on the amount of the use only and not on factors such as the value of property, the nature of the work and the market for it, and the transaction costs of a per use method of payment. In the ordinary case, the Copyright Act does not regulate the amount of compensation a copyright owner may receive. The copyright owner enjoys an exclusive right and if someone wishes to make use of a copyrighted work in a way restricted by 17 U.S.C. 106 (the exclusive rights provision), the compensation is set by voluntary agreement between the copyright owner and the user. Those voluntary agreements may be based on use, but are not necessarily so. For example, performing rights for nondramatic music are generally licensed on a "blanket" basis—the opposite of a per use basis. Many contracts for other works or other uses are for a term of years and permit unlimited use during the period. It is true that motion pictures are frequently licensed on a per use basis, but this is not a "principle of copyright law." In any event, cable retransmission of broadcast programming is subject to a compulsory license. Compensation is set by the statute (as adjusted by the CRT). The formula is complex and varies depending on the size of the cable system and the definition of DSE value. Actual carriage is important in some cases, but it is clearly not the sole principle on which cable royalties are computed. A cable system grossing less than $55,500 for a given six month period pays $20 in copyright royalties irrespective of the amount of actual carriage.

[13] The MPAA made its proposal before FCC deregulation, when proration of the DSE was also permitted for part time carriage pursuant to the FCC's late night and specialty rules.

television stations carried on a distant basis should be classified instead as "independent stations" with a corresponding DSE value of one. The Copyright Office received three comments in response to this inquiry. Two large MSO's suggested that the Office resolve this issue through use of the FCC definition of "independent station" under 47 CFR 76.5(n):

(n) *Independent station.* A commercial television broadcast station that generally carries in prime time not more than 10 hours of programming per week offered by the three major national television networks.

The MSO's imply that adoption of this definition would enable certain Canadian stations to be classified as "network" stations.

Testimony offered by representatives of the program supply industry, on the other hand, suggested that classification of foreign television stations as "network" stations is contrary to the definition of "network" and "independent" stations included in section 111(f) of the copyright law and that Canadian and Mexican stations must be classified as "independent stations," for purposes of computing DSE values. The Copyright Office agrees with this view.

Section 111(f) defines a "network station" as:

* * * a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of that station's typical broadcast day.

The subsection then defines an "independent station" as "* * * a commercial television broadcast station other than a network station."

Canadian and Mexican television stations fail to meet several of the qualifying "network" standards set forth above. First, neither Canadian nor Mexican stations are owned or operated by, or affiliated with any of the United States television networks. Second, with respect to Canadian stations, the regulations of the Canadian Radio-Television Telecommunications Commission impose foreign content limits of 40% in every Canadian licensee's program schedule, with 45% allowable in prime time. Although specific limits are not included in the U.S. copyright law definition of "network station," it is unlikely that carriage under the Canadian foreign content limits would constitute a *"substantial* part of the programming *supplied* by such networks for a *substantial* part of that station's typical broadcast day." (Emphasis added). Third, even if the "substantiality" test noted above were met, foreign stations would still fail to meet the "supplied" test since they acquire broadcast rights to such programming directly from the program supply copyright holders rather than through U.S. television networks.

If foreign stations cannot be considered "network stations" within the meaning of section 111(f), and they plainly cannot be considered "noncommercial educational stations" as defined in section 397 of title 47 United States Code, then they must be classified as independent stations for the purpose of assigning the DSE value.

Although the Office did not specifically invite comment with respect to the DSE value for specialty stations in the United States, one cable system operator suggested that the Copyright Office should encourage carriage of "socially useful" signals by permitting cable systems to assign either no DSE value, or a greatly reduced DSE value, for carriage of specialty stations. The general reasoning applicable to Canadian and Mexican stations leads to the same conclusion when applied to specialty stations. The Copyright Office in examining Statements of Account has consistently taken the position that specialty stations must be assigned a DSE value of one, since they do not meet the more specific alternative definitions of "network station" or "noncommercial educational station." The Office emphasizes that this interpretation applies to 17 U.S.C. 111 solely for the purposes of computing DSE values. In order to make these points clear, the Office is adding a new subparagraph (5) to § 201.17(f), which is concerned with computation of DSE's. The new language reads:

(5) For the purposes of computing DSE values, specialty primary television transmitters in the United States and all Canadian and Mexican primary television transmitters shall be assigned a value of one.

4. *Part-time carriage log.* Under present Copyright Office regulations, cable systems are required to log in Space J of Statement of Account forms CS/SA–2 and CS/SA–3 their carriage on a part-time basis of specialty and late-night programming, and other part-time carriage where they lack the activated channel capacity to retransmit on a full-time basis all signals which they are authorized to carry. These logging requirements first were imposed in 1978 on the assumption that this information "may reasonably be relevant to the question of royalty distribution." (43 FR 960.) Since 1978, the CRT and the copyright claimants to the cable royalty pools have had practical experience in several royalty distribution proceedings. In light of this experience, the Copyright Office decided to review the underlying basis for these logging requirements. The review, however, was limited to form CS/SA–2 since the information on part-time carriage included in form CS/SA–3 remains essential to the royalty calculation process.

The Copyright Office heard testimony and received comments from eight diverse organizations in response to this inquiry. Of these groups, only the National Association of Broadcasters (NAB) advocated retention of the log, at least until the CRT and the claimants gain further experience in the distribution of royalties. The NAB also was critical of any distinction made between "form 2" and "form 3" systems noting that the degree of harm caused copyright owners or the benefits received by multiple "form 2" cable systems is equivalent to the harm and benefits accruing from one "form 3" system serving the same number of subscribers. Therefore, the NAB suggests that these systems be treated equally with respect to their filing requirements.

The Copyright Office takes no position on the validity of the NAB "harm-benefit" analysis. Notwithstanding, the Office proposes to eliminate the part-time carriage log from form CS/SA–2 for several reasons. First, the log is employed on form CS/SA–2 solely to provide information for the CRT royalty distribution proceedings, which have, to date, concentrated on cable systems filing form CS/SA–3. Second, the Office's interim regulation of May 20, 1982 (47 FR 21786) eliminated the part-time logging requirements for carriage of late-night and specialty programming, which should further reduce the utility of the log in the royalty distribution process. Finally, the proposal by the Copyright Office to clarify the occasions when a cable system may appropriately claim part-time carriage because of "lack of activated channel capacity," discussed *infra*, may further reduce the significance of the log.

5. *Lack of activated channel capacity.* The DSE definition permits a cable system that completes form CS/SA–3 to reduce the full DSE value of television broadcast stations carried on a part-time basis where "the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry * * *" (hereafter "LAC capacity"). During its examination of Statements of Account, the Copyright Office has noted several

instances where cable systems have employed this provision and, at the same time, appeared to be using one or more of their activated channels for services other than secondary transmissions (*e.g.*, local origination, subscription services, etc.). Because of the uncertainty surrounding the applicability of the LAC capacity provision in this circumstance, the Copyright Office sought the views of the interested parties.

The Office received testimony and comments from seven groups in response to this inquiry. Organizations representing cable operators commented favorably on the ability of a system to utilize "lack of activated channel capacity" as a basis to reduce the ordinary DSE value in the situation noted above. In particular, they contended that cable operators should not be obligated to pay royalties for full-time carriage when a signal is carried only part-time. They also noted that, under the recent FCC deregulation eliminating its distant signal limitations, it is no longer *possible* for a cable system to retransmit all signals which it may be *authorized* to carry. Thus, the cable spokesmen suggest that all "form 3" cable systems now should be able to apply this provision for any and all part-time carriage. On the other hand, representatives of copyright proprietors advocated a strict interpretation of the DSE definition to eliminate use of the LAC capacity provision in cases where non-secondary transmission services are provided by a cable system.

After a thorough review of the parties' comments and the Copyright Act and its legislative history, the Copyright Office has determined for the following reasons that the intent of the LAC capacity provision limits its application to occasions where *all* of a cable system's activated channel capacity is devoted to secondary transmissions. First, as has been discussed in detail in previous Copyright Office rulemakings relating to this issue, the Office has concluded "that Congress clearly did not intend to establish an open-ended policy of permitting the reduction of DSE values to correspond to actual signal carriage." (45 FR 45271). Acceptance of the cable industry's position on this matter would invariably lead to this unintended result. Second, the statute specifically provides that proration of a DSE under the guise of lack of activated channel capacity may be available only where it is not *possible* for a cable system to retransmit all signals which it is authorized to carry. While the Commission's deletion of its distant signal limitations theoretically negates any possibility of carriage by a cable system of all signals which it is authorized to carry, the devotion of one or more of a system's activated channels to non-secondary transmission services evidences a conscious decision by the cable operator to refrain from carrying as many secondary transmissions as otherwise possible.[14]

In order to effectuate this decision, the Office is adopting a new definition in § 201.17(b) to read as follows:

> (10) For purposes of this section, a cable system "lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry" only if: (A) All of its activated television channels are used exclusively for the secondary transmission of television signals; and (B) the number of primary television transmitters secondarily transmitted by the cable system exceeds the number of its activated television channels.

The Office also proposes to make corresponding modifications to the Statement of Account forms, by June 1984.

6. *Gross Receipts for "Basic Service"—the "Tiering Issue."* Section 111(d)(2) of the Act requires cable systems to compute their statutory royalty payments on the basis of their gross receipts paid by subscribers "for the basic service of providing secondary transmissions of primary broadcast transmitters." Cable systems have frequently questioned the appropriate determination of gross receipts in cases where: (1) The minimum service package includes services in addition to the retransmission of radio and television signals, or (2) secondary transmissions are included in various tiers of service packages upon payment of separate charges for each service package or "tier." Since the choice of service packages above minimum service ordinarily rests with the subscriber, different subscriber groups arise for a given tier of service. Cable systems frequently have urged to the Copyright Office that they should be allowed to allocate the gross receipts in some way to reflect the precise amounts received from subscriber groups for the "secondary transmission" services.

In 1978, the Copyright Office specifically addressed the meaning of "gross receipts" (43 FR 27828) with respect to the inclusion in minimum cable service of local origination services (such as time and weather and automated services). At that time, the Office concluded that a cable system could not allocate a portion of the monthly service fee to the local origination services and report only the balance as "gross receipts." The Office's rationale for this decision was that the origination and retransmission services are clearly part of an integral package offered to subscribers and that there is no statutory justification or basis for allocating the monthly fee.

The Copyright Office, in examining Statements of Account since 1978, has generally questioned any allocation of gross receipts where secondary transmission service has been combined with a non-broadcast service for a single subscriber fee for the package of services, either with respect to minimum service or through the tiered approach. If a cable system has reported gross receipts applying its own formula for allocation, however, the Office would not ordinarily be aware of this in examining Statements of Account, unless the cable system voluntarily disclosed to us its allocation of gross receipts.

Since 1978, many cable systems have made various satellite origination networks (such as CNN, ESPN, and USA) and other non-broadcast services available to their subscribers, sometimes in combination with secondary transmission service. When the copyright law was enacted in 1976, cable systems generally transmitted all of their secondary transmissions to their subscribers for a single monthly service charge. Computer micronization has led to the development of "addressable" channel converters enabling cable systems to offer their subscribers a wider range of program selection through different tiers of service consisting of a specified number of channels, purchasable by subscribers at various increments of cost.

In light of these developments, the NCTA suggested in its comments to the Office's July 3, 1980, rulemaking proceeding, that the Office reconsider its earlier decision concerning "gross receipts." The Office decided to consider the "tiering" issue in general, and, as part of the July 1981 hearing, the Copyright Office sought testimony and comments on the implications of tiering.

Many of the comments indicated that the issue is best addressed with respect to the determination of "gross receipts" rather than DSE's. Comments received from cable television operators asserted that cable systems should be required to include as part of their basic service "gross receipts," only that part of their minimum service or tiered revenues attributable to secondary transmission service. The NCTA suggested that, for purposes of simplicity, a cable system

[14] *See In re Arlington Telecommunications Corp.*, Memorandum Opinion and Order of the FCC, 84-87; No. 34233; (February 3, 1984).

should report its entire receipts for all tiers as part of its basic service "gross receipts" in cases where the tier contains any secondary transmissions, but application of these receipts in the royalty calculation process should be limited to that subscriber segment receiving the tiered signals rather than the system's total number of subscribers. On the other hand, representatives of professional sports and the MPAA opposed any allocation or apportionment of gross receipts by subscriber groups, as suggested by the NCTA or by any other method. Instead, these groups requested that the regulations specify that all gross receipts attributable either to minimum service or to any tier of service containing secondary transmissions must be included in the calculation of royalties for the entire cable system, and that the gross receipts and DSE's should be aggregated.

As noted, tiering marketing strategies were not fully contemplated when the current law was enacted. Accordingly, the statute does not specifically accommodate tiering. The Act provides no guidance whatsoever either to the Copyright Office or cable systems regarding the method [15] for attempting any allocation of gross receipts. [16] The Office has been given no specific delegation of regulatory authority to establish a method for allocation. Under the circumstances, the Office has doubted whether it has the authority to establish a method for allocation of gross receipts. Even if that authority could be found under the general rulemaking power of 17 U.S.C. 702, what allocation method would be fair to all interests, and what kinds of controls and verification would be needed to avoid abuse?

The 1982 cable rate adjustment tends to enlarge the Office's doubts about the appropriate method for allocation, if any, since certain signals will cost substantially more than others. Thus, the NCTA's suggestion that the royalty should be calculated based on the segregated revenues for each tier applied to the DSE's for that tier, rather than on aggregated gross receipts and DSE's, would seem open to substantial manipulation of signals and tiers.

The Copyright office has concluded that the Copyright Act does not permit any proration or other allocation of either DSE's or gross receipts by subscriber groups where any secondary transmission service is combined with nonbroadcast services in program packages, clusters, or tiers. We confirm in regulations the interpretation of the Copyright Act applied by the Licensing Division of the Office since 1978.

The Office recognizes that cable marketing practices have changed drastically since 1976, but the Office cannot provide the flexibility requested by cable systems absent guidance from the Congress or the courts. To a large extent, subject to arrangements with local franchising authorities, a cable system can control its own "tiering" destiny. The system can offer secondary transmission services solely as part of minimum service or on discrete tiers, excluding expensive origination services in either case.

Accordingly, the Office is amending the definition of gross receipts for the "basic service of providing secondary transmissions of primary broadcast transmitters" to specify that allocation is not permitted where broadcast and non-broadcast services are combined in separate packages or tiers, chargeable at a single fee for the combined service. Section 201.17(b)(1) as amended reads:

(1) Gross receipts for the "basic service of providing secondary transmissions of primary broadcast transmitters" include the full amount of monthly (or other periodic) service fees for any and all services or tiers of services which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees. All such gross receipts shall be aggregated and the DSE calculations shall be made against the aggregated amount. Gross receipts for secondary transmission services do not include installation (including connection, relocation, disconnection, or reconnection) fees, separate charges for security, alarm or facsimile services, charges for late payments, or charges for pay cable or other program origination services: Provided That, the origination services are not offered in combination with secondary transmission service for a single fee.

7. *All-band FM.* One of the most difficult issues that the Copyright Office has faced in administering the cable television compulsory license has concerned the appropriate identification of FM radio signals carried by a cable system on an "all-band" basis. In an effort to assure compliance by cable systems with their statutory responsibilities while minimizing burdensome monitoring by them, the Copyright Office adopted a two-pronged regulation in 1978. The first element of the regulation permits cable systems carrying "all-band" FM, to adopt monitoring systems such as the periodic use of a good FM receiver during optimum weather conditions for the area, which can *reasonably be expected* to identify radio signals meeting certain specified time and strength standards. The second part of the regulation requires these affected cable systems to describe in part 3 of Space H of the Statement of Account form the monitoring systems so employed.

As part of the July 1981 hearing, the Office sought testimony and comments on whether or not cable systems carrying "all-band" FM should continue to be required to describe their monitoring activities. All of the comments received on this point favored the elimination of this reporting requirement and the Office is deleting subclause (v) of the § 201.17(e)(10) of its regulations and will eliminate part 3 of Space H of the Statement of Account form accordingly. It should be emphasized, however, that cable systems which continue to retransmit FM radio signals on an "all-band" basis still are required to identify the signals so carried.

Representatives of National Public Radio (NPR), the American Society of Composers, Authors and Publishers (ASCAP), and the National Association of Broadcasters (NAB) expressed the view that, based on their examination of submitted Statements of Account, many cable systems either misunderstand or disregard the instructions relating to Space H. The commentators noted that some cable systems properly answer "No" in part 1, designating no "all-band" carriage, but then neglect to complete part 2 to indicate those radio signals which the cable system processed separately. The Copyright Office agrees that part 1 of Space H may result in some confusion and believes that it can

[15] The first allocation question is whether allocation would be permitted with respect to minimum service received by all subscribers, as well as tiered services received by different subscriber groups. Secondly, in addition to the segmentation by subscriber groups proposed by NCTA, other methods might be: (1) Simple apportionment of revenues for each signal on a tier (a cable system might then "load-up" a secondary transmission tier with inexpensive or free program origination services, thereby diluting the amount of royalties due); (2) evaluation of the programming carried on certain tiers, with respect to the market value of the programming and/or the popular appeal of the signal, as measured by some marketing device. Another method, not relating to gross receipt allocation, would be to prorate the DSE to reflect the protion of subscribers receiving a secondary transmission (this method is contrary to the Office's interpretation of the Act that the DSE value cannot be prorated or allocated except as specifically provided in the definition itself).

[16] The Act permits allocation of gross receipts in one instance, unrelated to tiering: where a cable system is located partly within and partly without the local service area of a primary transmitter, gross receipts are allocated to reflect gross receipts derived from subscribers located outside the local service area of such primary transmitter. 17 U.S.C. (d)(2)(B)(iv). The Office has concluded that this provision, which is based on the fundamental distinction between distant and local signals, does not evince any congressional intent to allow allocation in the unrelated case of tiering.

be reduced through simplification of the Statement of Account form.

Accordingly, the office intends to delete part 1 of Space H in its entirety and add a new column to part 2 for identifying a radio station that was electronically processed by the system as a separate and discrete signal.

ASCAP and NPR also noted problems which they have encountered during the CRT royalty distribution proceedings due to the lack of an adequate statutory or regulatory definition of "distant" radio carriage. The commentators have asked the Copyright Office to resolve this situation through the adoption in our regulations of a definition of "distant" radio carriage. The Copyright Office has decided not to act on this request. Section 111(f) of the copyright law provides in part that,

> The "local service area of a primary transmitter," in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

Carriage outside of this local service area constitutes "distant" carriage. The Office cannot provide the desired clarification.

8. *Specification of local television carriage.* Cable systems that complete Statement of Account form CS/SA-3 compute their statutory royalty payment on the basis of their carriage of distant non-network programming. For this purpose, a television station is considered as "local," and hence not considered in the calculation of royalties, if it "is entitled to insist upon its signal being retransmitted * * * pursuant to rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976" (*i.e.*, within Grade B contour, significantly viewed, etc.). Copyright Office regulations and Statement of Account forms CS/SA-2 and CS/SA-3 currently [17] require cable system operators to indicate whether television stations carried by them are "local" or "distant."

In their comments to the July 3, 1980, Copyright Office rulemaking proceeding, the MPAA suggested that cable systems also be required to specify the particular basis under which they classify particular television station carriage as local. The MPAA believes that this additional requirement would reduce the number of innocent errors in the designation of carriage and would enhance the reviewability of the Statement of Account forms by copyright proprietors and cable system operators. As part of our July 1981 hearing, the Copyright Office sought the views of other interested parties regarding this suggestion.

In response, the Office received comments from four groups of cable operators, all objecting to the suggestion. They noted that the information is presently readily available in FCC files and numerous cable television data publications.

Although the Office does not believe that the further specification of local television carriage would impose great burdens on cable operators, we have decided against adding this regulatory requirement in light of the availability of the information from other sources.

9. *Statement of Account forms and royalty computations.*

a. *CS/SA-2 forms.* Cable systems completing Statement of Account form CS/SA-2 compute their statutory royalty payments through use of either a seven- or eight-step mathematical formula set forth in Space L. In their comments to the July 3, 1980, Copyright Office rulemaking proceedings, the MPAA proposed that the Office adopt a simplified, four-step formula which, they suggest, achieves the same results as the present formulas. Prior to the July 1981 hearing, the Copyright Office published the proposed formula in the **Federal Register** (46 FR 30651) for comment and review.

During the hearing, both the MPAA and the NCTA testified that the proposed formula reached comparable results as the two somewhat longer formulas now used and, therefore, favored its adoption. On the other hand, comments received from two multi-system operators requested that the Copyright Office delay consideration of this matter until completion of judicial review of the CRT "inflationary" rate adjustment, which has now been sustained on appeal.[18]

Although the proposed formula is shorter than the two existing formulas, the Copyright Office believes that the benefits to be gained through simplification are minimal. Furthermore, the two existing formulas track the statutory language of the calculations as set forth in sections 111(d)(2) (C) and (D) of the statute, and, in the opinion of the Copyright Office, lead to a better understanding by cable operators of the royalty computation process under the compulsory license. The Copyright Office believes that this instructional aspect, in addition to its familiarity in use during the last eight accounting periods, far outweighs any benefits that may be derived through use of a simplified formula. Accordingly, the Office has decided to retain the two formulas as presently written.

b. *CS/SA-3 forms.* The MPAA has, for several years, also sought the revision of the royalty calculation process on form CS/SA-3 through the use of a table to convert total DSE's to percentage decimals. The Copyright Office suggests that representatives of the cable industry meet with copyright proprietors to develop joint recommendations concerning simplification of this calculation process.

c. *All forms.* In its July 1981 testimony, the MPAA pointed out that many combined "individual" cable systems often innocently report as several individual systems in violation of the statute and Copyright Office regulations. In an effort to detect and possibly avoid these innocent infractions, the MPAA recommended that: (1) The Statement of Account forms prominently set forth the circumstances when two or more individual systems must report as one system; (2) the system specify the location of its headend; and (3) the system provide its FCC-assigned "physical system" and "community name" code numbers.

The Copyright Office believes that the number of inadvertent "individual" filings has decreased since 1978 due, in part, to the better understanding by cable operators of their obligations under the compulsory license. Therefore, while the Office will continue prominently to include in the Statement of Account instructions the combined "individual" system filing requirements, we have decided against imposing additional filing requirements on cable operators, subject to our ongoing review of procedures to implement the 1982 cable rate adjustment.

d. *Special form for small systems.* Finally, one cable television operator suggested that the Copyright Office define "small" cable television systems as those serving fewer than 1,000 subscribers and allow more liberal reporting requirements for such systems.

The Office has attempted, throughout its administration of the compulsory license mechanism, to reduce the filing burdens imposed on smaller cable systems. the amendments included in this rulemaking attempt to continue this trend. However, the Office has no authority to waive or reduce certain statutory-prescribed filing requirements on the basis of the number of a cable system's subscribers.

* * * * *

[17] As discussed at point 4 *supra*, the Office is eliminating the part-time carriage log for CS/SA-2 systems in the final regulation.

[18] NCTA v. CRT, 689 F. 2d 1077 (D.C. Court of Appeals; 1982).

For the foregoing reasons, the Copyright Office is amending the stated portions of 37 CFR 201.11 and 201.17, effective June 1, 1984. The issues and policies covered by this rulemaking have been the subject of a public hearing and extensive public comment. The regulations are either interpretive of the Copyright Act or concern technical adjustments in the Statement of Account forms. In order to prepare the revised forms for publication in June 1984, the final regulations will be effective on June 1, 1984. The Office invites public comment specifically on the language of the final regulations, but they will be effective on June 1, 1984, in the form they are published today, unless the Office subsequently publishes a notice to the contrary. To the extent that the rules are interpretive of the Copyright Act and confirm past examining practices of the Copyright Office, the Office may cite these regulations in examining Statements of Account from today forward.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the United State Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[19] To the extent that the regulations are interpretive, moreover, they are not subject to the Regulatory Flexibility Act in any event.

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that the regulations will have no significant impact on small businesses. The regulations primarily affect large MSO cable systems who file CS/SA–3 forms.

[19] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title (17)," except with respect to the making of copies of copyright deposits). (17 U.S.C. 706(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

List of Subjects in 37 CFR Part 201

Cable television, Copyright, Copyright Office.

Final Regulations

In consideration of the foregoing, Part 201 of 37 CFR Chapter II is amended in the manner set forth below.

A. Section 201.11 is amended as follows:

1. Paragraph (c)(2) of § 201.11 is removed in its entirety.

* * * * *

2. Paragraph (d)(4) of § 201.11 is removed in its entirety and paragraph (d)(5) is redesignated paragraph (d)(4).

* * * * *

3. Paragraph (e)(2) of § 201.11 and accompanying footnote 5 are removed in their entirety.

4. Paragraph (e)(3) of § 201.11 is redesignated paragraph (e)(2) and is revised to read as follows:

§ 201.11 Notice of identity and signal carriage complement of cable systems.

* * * * *

(e) * * *

(1) * * *

(2) *Special (Required) Amendments for Certain Cable Systems.* Any cable system which records an Initial Notice of Identity and Signal Carriage Complement and is required by the last sentence of paragraph (c)(1)(iv)(B) of this section to record a special amendment shall, no later than one hundred and twenty days after recordation of the Initial Notice, record an amendment to that Notice identifying the primary transmitter or primary transmitters of FM signals generally receivable by the system as of the date of the amendment in accordance with paragraphs (c)(1)(iv) (A) and (B) of this section. Such amendment shall: (i) Be clearly and prominently identified as an "Amendment to Initial Notice of Identity and Signal Carriage Complement"; (ii) specifically identify the Initial Notice intended to be amended so that it may be readily located in the records of the Copyright Office; and (iii) be signed and dated in accordance with paragraph (c)(1)(v) of this section. The signature shall be accompanied by the printed or typewritten name of the owner of the system as given in the Notice sought to be amended.

* * * * *

5. The reference to "paragraph (e)(3)" in the last sentence of paragraph (B) of § 201.11(c)(1)(iv) is changed to read "paragraph (e)(2)."

* * * * *

B. Section 201.17 is amended as follows:

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

1. Paragraph (b)(1) of § 201.17 is revised to read as follows:

(b) *Definitions.* (1) Gross receipts for the "basic service of providing secondary transmissions of primary broadcast transmitters" include the full amount of monthly (or other periodic) service fees for any and all services or tiers of services which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees. All such gross receipts shall be aggregated and the DSE calculations shall be made against the aggregated amount. Gross receipts for secondary transmission services do not include installation (including connection, relocation, disconnection, or reconnection) fees, separate charges for security, alarm or facsimile services, charges for late payments, or charges for pay cable or other program origination services: Provided That, the origination services are not offered in combination with secondary transmission service for a single fee.

* * * * *

2. A new paragraph (b)(10) is added to § 201.17 and reads as follows:

* * * * *

(b) * * *

(10) For purposes of this section, a cable system "lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry" only if: (A) All of its activated television channels are used exclusively for the secondary transmission of television signals; and (B) the number of primary television transmitters secondarily transmitted by the cable system exceeds the number of its activated television channels.

* * * * *

3. Paragraph (e)(5) of § 201.17 is revised to read as follows:

* * * * *

(e) * * *

(5) The designation "Channels," followed by: (i) The number of channels on which the cable system made secondary transmissions to its subscribers, and (ii) the cable system's total activated channel capacity, in each case during the period covered by the Statement.

* * * * *

4. Paragraph (e)(8) of § 201.17 is revised to read as follows:

* * * * *

(e) * * *

(8) The designation "Services Other Than Secondary Transmissions: Rates," followed by a description of each package of service which consists solely of services other than secondary transmission services, for which a separate charge was made or established, and which the cable system furnished or made available to subscribers during the period covered by the Statement of Account, together with the amount of such charge. However, no information need be given concerning services furnished at cost. Specific amounts charged for pay cable programming need not be given if the rates are on a variable, per-program basis. (The fact of such variable charge shall be indicated.)

* * * * *

5. Paragraph (e)(9)(vii) of § 201.17 is revised to read as follows:

* * * * *

(e) * * *

(9) * * *

(vii) The information indicated by paragraph (e)(9), subclauses (v) and (vi) of this section, is not required to be given by any cable system that appropriately completed Form CS/SA–1 or Form CS/SA–2 for the period covered by the Statement.

* * * * *

6. Paragraph (e)(10)(i) of § 201.17 is revised to read as follows:

* * * * *

(e) * * *

(10) * * *

(i) A designation as to whether each primary transmitter was electronically processed by the system as a separate and discrete signal.

* * * * *

7. Paragraph (e)(10)(v) of § 201.17 is removed in its entirety.

* * * * *

8. Paragraph (f)(2) of § 201.17 is revised to read as follows:

* * * * *

(f) * * *

(2)(A) where a cable system carries a primary transmitter on a full-time basis during any portion of an accounting period, the system shall compute a DSE for that primary transmitter as if it was carried full-time during the entire accounting period.

(B) where a cable system carries a primary transmitter solely on a substitute or part-time basis, in accordance with subparagraph (3) of this paragraph (f), the system shall compute a DSE for that primary transmitter based on its cumulative carriage on a substitute or part-time basis. If that primary transmitter is carried on a full-time basis as well as on a substitute or part-time basis, the full DSE for that primary transmitter shall be the full DSE type value for that primary transmitter, for the entire accounting period.

* * * * *

9. A new paragraph (f)(5) is added to § 201.17 and reads as follows:

* * * * *

(f) * * *

(5) For the purposes of computing DSE values, specialty primary television transmitters in the United States and all Canadian and Mexican primary television transmitters shall be assigned a value of one.

* * * * *

10. The last sentence of § 201.17(g) is amended by removing the numerals "0.675" and substituting "0.799" in lieu thereof.

(17 U.S.C. 111, 702)

Dated: March 20, 1984.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 84–8511 Filed 3–30–84; 8:45 am]

BILLING CODE 1410–03–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–VI–FRL–2553–4]

Oklahoma Regulation 1.4—Air Resources Management—Permits Required

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice approves a revision to Oklahoma Air Pollution Control Regulation 1.4—Air Resources Management—Permits Required which adds 2 parts to subsection 1.4.1(c) Necessity to Obtain Permits. The revision was adopted by the Oklahoma State Board of Health on May 12, 1983, and submitted by the Governor on May 19, 1983. The purpose of the revision is to make subsection 1.4.1(c) clear. On September 23, 1983, the State submitted a letter of clarification on subsection 1.4.1(c)(3).

DATE: This action will be effective May 2, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

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

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

Environmental Protection Agency, Public Information Reference Unit, EPA Library Rm. 2404, 401 M Street SW., Washington, D.C. 20460

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

Oklahoma State Department of Health, 1000 Northeast 10th Street, P.O. Box 53551, Oklahoma City, Oklahoma 73152

FOR FURTHER INFORMATION CONTACT: Kathryn Griffth, State Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–9853.

SUPPLEMENTARY INFORMATION: On May 19, 1983, the Governor of Oklahoma submitted a revision to Regulation 1.4—Air Resources Management—Permits Required. The revision adds two parts to subsection 1.4.1(c) Necessity to Obtain Permits to make it clear. EPA has reviewed the State's submittal and developed an evaluation report.[1] This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other addresses listed above.

The State submitted a letter of clarification dated September 23, 1983, on subsection 1.4.1(c)(3) which clarified "minor significance." EPA's concern was whether or not a major source or modification could ever be of minor significance and therefore not require a permit. The letter of clarification states "A major source or modification could not be minor. Therefore, all major emission sources will have permits." Major sources or major modifications, as defined in Regulation 1.4 and approved by EPA, are required to have a permit. This exemption only applies to those other sources which are determined on a case by case basis to be of minor significance. EPA accepts the State's clarification. Therefore, EPA is approving the revision.

Since the revision included in this approval notice is considered

[1] EPA Review of Oklahoma State Implementation Plan Revision to Regulation 1.4—Air Resources Management—Permits Required.

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

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

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

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

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

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by Reference.

Dated: March 21, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart LL—Oklahoma

1. Section 52.1920, is amended by adding paragraph (c)(29) as follows:

§ 52.1920 Identification of Plan.

* * * * *

(c) * * *

(29) Revision of Oklahoma Regulation 1.4—Air Resources Management—Permits Required was submitted by the Governors on May 19, 1983. A letter of clarification on subsection 1.4.1(c)(3) was submitted by the State on September 23, 1983.

[FR Doc. 84-8142 Filed 3-30-84; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 81

[A-III-FRL-2555-8; EPA Docket No. 107-PA-10

Designation of Areas for Air Quality Planning Purposes Approval of Section 107 Designation for the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing the approval of a request submitted by the Commonwealth of Pennsylvania to redesignate the Lower Beaver Valley Air Basin (Beaver County) to a "Better than National Standards" status with respect to the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2). This change is based on a dispersion modeling study and on eight consecutive calendar quarters of air quality monitoring data showing attainment.

EFFECTIVE DATE: May 2, 1984.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Branch, Curtis Building, 2nd floor, Sixth & Walnut Streets, Philadelphia, PA 19106. Attn: Eileen M. Glen

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120. Attn: Gary Triplett.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen (3AW11) at the EPA, Region III address above or call 215/597-8187.

SUPPLEMENTARY INFORMATION: The Pennsylvania Department of Environmental Resources has submitted to the U.S. Environmental Protection Agency (EPA), a request to redesignate the Lower Beaver Valley Air Basin (Beaver County, Pennsylvania) from nonattainment to "Better than National Standards" status for SO_2 under Section 107 of the Clean Air Act and 40 CFR Part 81.

The air quality data for January 1980 through the later part of 1982 indicate that this area shows no violations of the SO_2 air quality standards. EPA has examined the air quality data collected from the three monitoring sites used to demonstrate attainment and found that the data were collected in accordance with all EPA requirements. Also, the H.E. Cramer modeling study (EPA-903/9-81-001) has demonstrated SO_2 attainment for the Lower Beaver Valley Air Basin, considering the greater of either SIP allowable or actual emissions for the sources in that area.

EPA, on August 8, 1983, published a proposed rulemaking at 48 FR 35920 approving the redesignation. As a result of the Federal Register notice, EPA received two comments regarding the proposed redesignation for the Lower Beaver Valley Air Basin. One comment, received from a local company, was in favor of the redesignation and one comment, also received from a local company, was opposed to the redesignation.

In its letter dated September 6, 1983, the opposing company questioned both the emission inventory used for their boilers and the modeling results showing the impact of the individual sources. As a result, we requested the Pennsylvania Department of Environmental Resources (DER) review the emission factors and the validity of the modeling results used in the Cramer report.

In response to the emission inventory that was used, DER stated that the emission inventory was developed back in 1976 using the best available information and this was then projected to 1980 using reasonable operating levels and taking into consideration future modifications. Thus, the inventory developed was a 1980 compliance inventory and not an actual 1980 emission inventory as referred to by the Company. This inventory has been updated using 1980 data for not only this company but all the other sources in the Lower Beaver Valley. Using the revised emission estimates, attainment of the SO_2 standard was still predicted.

With respect to the comment regarding the modeling analysis, DER has stated, and EPA agrees, that the proximity of individual sources is one of the least contributing factors when modeling on both an annual and a short-term basis.

Conclusion

In view of these comments and DER's response, we find that sufficient cause to disapprove the proposed redesignation does not exist. Therefore, EPA is today approving Pennsylvania's request to redesignate the Lower Beaver

Valley Air Basin (Beaver County) to "Better than National Standards" status for SO_2. All other Section 107 designations for the Commonwealth of Pennsylvania remain intact.

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

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

Under 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the 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.

§ 81.339 Pennsylvania. Pennsylvania—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * *	*	*	*	
V. Southwest Pennsylvania Intrastate AQCR				
* * *	*	*	*	
*(C) Beaver Valley Air Basin (Beaver County)				X
* * *	*	*	*	

[FR Doc. 84-8687 Filed 3-30-84; 8:45 am]

BILLING CODE 6560-50-M

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas, Intergovernmental relations.

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

Dated: March 23, 1984.

William Ruckelshaus,

Administrator.

PART 81—[AMENDED]

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

Subpart C—Section 107 Attainment Status Designations

1. In § 81.339, Pennsylvania, the table entitled "Pennsylvania—SO_2", is amended by adding an "X" under the column head "Better than national standards" for Beaver Valley Air Basin (Beaver County) as follows:

40 CFR Part 145

[WH-FRL 2553-7]

Colorado Oil and Gas Conservation Commission; Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Colorado has submitted an application under section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II oil and natural gas related injection wells. After careful review of the application and comments received for the public, the Agency has determined that the State's injection well program for Class II wells meets the requirements of Section 1425 of the Act. Therefore, this application covering Class II injections is approved.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Long, Ground Water Section, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. PH: (303) 837-3914. Copies of EPA's summary response to public comment are available at the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Federal Regulations (40 CFR Parts 124, 144, and 145) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Colorado was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State submitted an application under Section 1425 on May 3, 1983, for the approval of a UIC program governing Class II injection wells to be administered by the Colorado Oil and Gas Conservation Commission (COGCC). EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the COGCC on July 10, 1983 (48 FR 26842). A public hearing was held in Denver, Colorado, on June 12, 1983. After careful review of this application and comments received from the public, I have determined that the Colorado UIC program submitted by the COGCC for Class II injection wells meets the requirements of Section 1425 of the SDWA, and hereby approve it. The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for the State of Colorado. The requirements of this program include State statutes and regulations set forth at: Colo. Rev. Stat., 1973, § 34-60-101 *et seq.* (1983 Cum. Supp.); Colo. Rev. Stat., 1973, § 25-8-101 *et seq.* (1982); 2 Code of Colorado Regulations 404-1, Rules 101-529 (1983).

Since this action simply adopts as the Federal program the State laws and regulations already in effect, EPA is publishing this approval effective immediately. This will enable Colorado to begin immediately issuing UIC permits for Class II injection wells under the Federally approved program.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its

own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

In this application, Colorado chooses not to assert jurisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the EPA will, at a future date, prescribe a UIC program governing injection wells on any Indian lands or reservations.

OMB Review

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1425 of the Safe Drinking Water Act of the application by the Colorado Oil and Gas Conservation Commission will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

(42 U.S.C. 300)

Dated: March 27, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-8683 Filed 3-30-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6593]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

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

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

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

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

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Region I					
Maine: Worcester	Oakham, town of	250324B	Nov. 18, 1983, emergency; Apr. 3, 1984, regular; Apr. 3, 1984, suspended.	Aug. 2, 1974 and Aug. 20, 1976	Apr. 3, 1984.
Berkshire	Williamstown, town of	250046B	Feb. 18, 1972, emergency; Aug. 15, 1977, regular; Apr. 3, 1984, suspended.	Feb. 8, 1974 and July 5, 1977	Do.
Region II					
New Jersey: Essex	Glen Ridge Borough, township of	340183B	Apr. 15, 1975, emergency; Apr. 3, 1984, regular; Apr. 3, 1984 suspended.	July 6, 1973 and June 11, 1976	Do.
New York: Westchester	Mamaroneck, village of	360916D	Mar. 24, 1972, emergency; Dec. 1, 1977, regular; Apr. 3, 1984 suspended.	Sept. 14, 1973, Jan. 16, 1976, Dec. 1, 1977, and Oct. 29, 1982.	Do.
Region III					
Pennsylvania: Delaware	Darby, township of	421603B	Nov. 8, 1974, emergency; Apr. 3, 1984, regular; Apr. 3, 1984, suspended.	Aug. 30, 1974 and Oct. 17, 1975	Do.
West Virginia: Mingo	Matewan, town of	545538B	Feb. 3, 1970, emergency; Feb. 3, 1970, regular; Apr. 3, 1984, suspended.	Feb. 3, 1970, July 1, 1974, and Dec. 26, 1975.	Do.
Region IV					
Florida: Martin	Ocean Breeze Park, town of	120163C	Apr. 15, 1976, emergency; Dec. 15, 1983, regular; Apr. 3, 1984, suspended.	Aug. 2, 1974 and Apr. 2, 1976	Do.
Region V					
Ohio: Montgomery and Warren.	Carlisle, Village of	390606A	Mar. 19, 1976, emergency; Apr. 3, 1984, regular; Apr. 3, 1984 suspended.	July 25, 1975	Do.
Champaign	Urbana, city of	390060B	Apr. 21, 1975, emergency; Apr. 3, 1984, regular; Apr. 3, 1984, suspended.	June 7, 1974 and May 28, 1976	Do.
Wisconsin: Dodge	Beaver Dam, city of	550095D	May 16, 1975, emergency; Apr. 3, 1984, regular; Apr. 3, 1984, suspended.	Dec. 17, 1973, Oct. 10, 1975, Sept. 24, 1976, and Jan. 1, 1978.	Do.
Region VI					
Louisiana: Cameron Parish.	Unincorporated areas	225194C	June, 12, 1970, emergency; Sept. 4, 1970, regular; Apr. 3, 1984, suspended.	Sept. 4, 1970, July 1, 1974, and Oct. 1, 1983.	Do.
Region VII					
Iowa: Mills	Emerson, city of	190202A	July 28, 1975, emergency; Apr. 3, 1984, regular; Apr. 3, 1984, suspended.	Dec. 13, 1974	Do.
Nebraska: Dakota	Homer, village of	310241B	Mar. 26, 1975, emergency; Apr. 3, 1984, regular; Apr. 3, 1984, suspended.	Sept. 6, 1974 and June 4, 1976	Do.
Region X					
Oregon: Douglas	Reedsport, city of	410065D	May 13, 1975, emergency; Apr. 3, 1984, regular; Apr. 3, 1984, suspended.	June 21, 1974, Apr. 23, 1976, and Aug. 23, 1977.	Do.

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

Issued: March 23, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-8681 Filed 3-30-84; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 49, No. 64
Monday, April 2, 1984

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Exceptions to Notice and Comment Rulemaking Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The proposed rule would amend the Commission's rules of practice by revising Commission rulemaking procedures contained in 10 CFR 2.804 and 2.805 to clarify the Commission's use of the exceptions to notice and comment rulemaking contained in section 4 of the Administrative Procedure Act (5 U.S.C. 553(b)) This clarification is necessary in light of the U.S. Court of Appeals for the District of Columbia decision in *Union of Concerned Scientists* v. *Nuclear Regulatory Commission*, No. 82-2000 (D.C. Cir. June 30, 1983).

DATE: Comment period expires May 2, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received before this date.

ADDRESS: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Office of the Executive legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7688.

SUPPLEMENTARY INFORMATION: The U.S. Court of Appeals for the District of Columbia, in its recent decision in *Union of Concerned Scientists* v. *Nuclear Regulatory Commission*, No. 82-2000 (D.C. Cir. June 30 1983) (*"UCS* v. *NRC"*), vacated the Commission's rule of June 30, 1982 which amended operating licenses by removing the deadline for the environmental qualification of electrical equipment. 47 FR 28363, June 30, 1982. The D.C. Circuit held that by making the rule immediately effective instead of providing for notice and comment, the NRC had among other things, violated Commission regulations. This holding was based on language in 10 CFR 2.804 which the Court read, contrary to the Commission's interpretation, as a requirement for notice and opportunity for prior comment in all Commission rulemakings. The Court concluded that the NRC had divested itself of whatever discretion applicable statutes might allow for dispensing with notice and comment.

It is the Commission's intention in the present rulemaking to clarify its regulations so as to leave no doubt that the Commission does assert, to the extent allowable, its discretion under Section 4 of the Administrative Procedure Act (APA) [5 U.S.C. 553(b)] to make exceptions to the general requirements for notice and opportunity for comment in informal rulemaking.

In making this clarification, however, the Commission notes that the D.C. Circuit in *UCS* v. *NRC* had called into question the extent to which the Commission can lawfully claim such discretion. As an alternative reason for vacating the rule under review, the D.C. Circuit held that notice and hearing requirements in Section 189a of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2239a, prevented the Commission from relying on the APA "good cause" exception in the June 30, 1982 rulemaking. In the Commission's view, however, the Court's explanation of this holding left unclear whether the Court saw Section 189a as a general bar to use of the APA "good cause" exception in any NRC rulemaking affecting the activities of licensees or as a less sweeping restriction.

The Commission moved the D.C. Circuit to vacate this part of its opinion. The Commission noted to the Court that the discussion of the relation between Section 189a and the APA "good cause" exception was unnecessary to the result of the case, raised issues which had not been briefed, was ambiguous in its scope, and could if read broadly interfere severely with the Commission's ability to act promptly in the interest of public health and safety. The Court then called for simultaneous briefing by the parties on the availability of the APA "good cause" exception in Commission rulemaking. The Commission filed a brief which maintained that Section 189a does not restrict use of the "good cause" exception. The Union of Concerned Scientists argued that there was a virtually total bar to use of the exception. After receiving this additional briefing the Court on December 5, 1982 denied without opinion the Commission's motion to amend the decision, offering no further explanation or clarification of its holding, and ordered that its mandate should issue.

In these circumstances, the Commission believes it is reasonable to give the Court's opinion an interpretation no more restrictive than the language and the context appear to require. In addition, the Commission continues to hold the view that any reading of Section 189a which interferes with the Commission's ability to take immediate action affecting the activities of NRC licensees, whether by individual order or by rulemaking, when safety requires it, is contrary to the intent of Congress and is an erroneous interpretation of the Atomic Energy Act. A limitation on use of the APA "good cause" exception clearly has the potential for such interference and therefore should be interpreted narrowly. Accordingly, the Commission reads the language in *UCS v. NRC* relevant to the availability of the "good cause" exception as applying only to the kind of rulemaking under review in that case, *i.e.*, rules that amend reactor licenses, while leaving unaffected the Commission's authority under the APA to make other kinds of rules effective without prior notice and comment when there is good cause.

This reading of *UCS* v. *NRC* leaves intact for the most part the Commission's longstanding and consistent interpretation of its statutory authority and of the rulemaking procedures contained in 10 CFR Part 2, Subpart H, that the Commission could avail itself of the exceptions to notice and comment rulemaking contained in the APA for—

- Interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice. 5 U.S.C. 553(b)(A); or

• When the agency for good cause finds that notice and comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B)

The Commission sees no reason why this interpretation should not be reaffirmed, except as it is affected by *UCS* v. *NRC*. To assure that the regulation unambiguously reflects the Commission's intentions, the proposed rule would amend 10 CFR 2.804, and 2.805 to provide explicitly for Commission discretion to invoke in appropriate situations the APA exceptions to notice and comment rulemaking cited above, as permitted by law. Under the proposed rule, notice and comment will not be mandatory in Commission rulemaking within the scope of section 553 of the U.S. Code, when they involve interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice, or where the Commission for good cause finds that notice and comment are impracticable, unnecessary or contrary to the public interest. In response to the D.C. Circuit's opinion in *USC* v. *NRC*, however, the Commission proposes to include in Section 2.804(2) language providing that the APA exceptions to notice and comment rulemaking will apply only where notice and comment are not required by statute.

Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. It merely clarifies and affirms existing Commission practice on utilizing the statutory exceptions to notice and comment rulemaking contained in section 553(b) of the Administrative Procedure Act.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Subpart H—Rulemaking

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Section 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955 as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239) Section 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Sections 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended. (42 U.S.C. 2039). Appendix A also issued under sec. 6, Pub. L. 91–580, 84 Stat. 1437 (42 U.S.C. 2135).

2. In § 2.804, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

§ 2.804 Notice of proposed rulemaking.

(a) Except as provided by paragraph (d) of this section, when the Commission proposes to adopt, amend, or repeal a regulation, it will cause to be published in the **Federal Register** a notice of proposed rulemaking, unless all persons subject to the notice are named and either are personally served or otherwise have actual notice in accordance with law.

* * * * *

(d) The notice and comment provisions contained in paragraphs (a), (b), and (c) of this section will not be required to be applied—

(1) To interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(2) When the Commission for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest, and are not required by statute. This finding, and the reasons therefor, will be incorporated into any rule issued without notice and comment for good cause.

3. In § 2.805, paragraph (a) is revised to read as follows:

§ 2.805 Participation by interested persons.

(a) In all rulemaking proceedings conducted under the provisions of § 2.804(a), the Commission will afford interested persons an opportunity to participate through the submission of statements, information, opinions, and arguments in the manner stated in the notice. The Commission may grant additional reasonable opportunity for the submission of comments.

* * * * *

Dated at Washington, D.C., this 27th day of March 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–8717 Filed 3–30–84; 8:45 am]

BILLING CODE 7590–01–M

---

10 CFR Parts 2 and 50

Elimination of Review of Financial Qualifications of Electric Utilities in Operating License Reviews and Hearings for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: In response to a remand by the U.S. Court of Appeals for the D.C. Circuit, the Nuclear Regulatory Commission (NRC) proposes a rule which eliminates financial qualifications review and findings for electric utilities that are applying for operating licenses for utilization facilities if the utility is a regulated public utility or authorized to set its own rates.

DATE: Comment period expires June 1, 1984.

Comments received after that date will be considered if it is practical to do so, but assurances of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposal to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission

may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Carole F. Kagan, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (Telephone: (202) 634-1493).

SUPPLEMENTARY INFORMATION:

I. Background

On March 31, 1982, the Commission published a notice of rulemaking in the **Federal Register** (47 FR 13750) to amend the Rules of Practice for Domestic Licensing Proceedings, 10 CFR Part 2 (1982), and its substantive requirements governing Domestic Licensing of Production and Utilization Facilities, 10 CFR Part 50 (1982), to entirely eliminate requirements for financial qualifications review and findings for electric utilities applying for construction permits or operating licenses for production or utilization facilities. The background of this rule was detailed in the notice of rulemaking, as well as in the notice of proposed rulemaking, 46 FR 41786 (Aug. 18, 1981).

The New England Coalition on Nuclear Pollution and others petitioned for review of the rule in federal court under 28 U.S.C. 2342(4) (1976). Review was granted, and the U.S. Court of Appeals for the D.C. Circuit heard argument on February 23, 1983. On February 7, 1984, that court handed down a decision which remanded the rule to the Commission for clarification of its accompanying statement of basis and purpose. *New England Coalition on Nuclear Pollution* v. *NRC*, No. 82-1581 (D.C. Cir. Feb. 7, 1984).

The court found the Commission's explanation of the final rule internally inconsistent because, in the court's view, the reasons the Commission advanced for dispensing with the financial qualifications review for electric utilities would, if supported by the facts, apply generally to all license applicants and would not support a rule that singled out utilities for special treatment. The court found that in promulgating the final rule the Commission had abandoned the first premise on which the proposed rule had rested, *i.e.*, that regulated utilities were presumed financially able to construct and operate nuclear plants safely because of their regulated status.

Commenters on the proposed rule had questioned whether rate commissions could be counted on to support plant construction. Recent cancellations and deferrals of nuclear plants under construction do in fact suggest that a utility's status as a regulated entity does not by itself always ensure that the necessary funds will be forthcoming to complete construction. It does not necessarily follow from this that plants will be or are being constructed in an unsafe manner. However, the financial difficulties experienced at some plants under construction do suggest that elimination of financial qualifications reviews at the construction permit stage is a matter that will require further study by the Commission. There are no construction permit proceedings currently pending, so the matter of construction permit financial qualifications reviews is of small practical consequence. Given this fact, and the fact that any further study of possible elimination of construction permit financial qualifications reviews would delay a response to the court's remand, the Commission has decided that its response on remand will focus on financial qualifications reviews at the operating license stage. The part of the rule subject to the court's remand which eliminated financial qualifications reviews at the construction permit stage should be withdrawn pending further study. In effect, the old rule providing for construction permit reviews will be reinstated pending further study.

At the operating license review stage, however, the regulated status of electric utilities continues to provide a reliable basis for finding financial qualification. Here the focus is not on construction but on safe operation. The Commission believes that case-by-case review of financial qualifications for all electric utilities at the operating license stage is unnecessary for the following reason. Utilities are usually regulated through state and/or federal economic agencies, and generally are allowed to recover all or a portion of the costs of constructing generating facilities and all of the costs of operation, subject to the oversight of such state and/or federal agencies. *See, e.g., FPC* v. *Hope Natural Gas Co.*, 320 U.S.C. 519 (1944); *Bluefield Water Works and Improvement Co.* v. *Public Service Commission of the State of West Virginia*, 269 U.S. 679 (1923). These landmark court decisions established the principle that public utility commissions are to set a utility's rates such that all reasonable costs of serving the public may be recovered, assuming prudent management of the utility. Obviously, the funds needed to operate the plant in conformance with NRC safety regulations shoud be recoverable as reasonable costs of operation. The Commission believes it reasonable to conclude that, as a general rule, the rate regulation process assures for regulated electric utilities (or those able to set their own rates) the ability to meet the costs of safe operation of a nuclear power facility.[1]

Under the financial qualifications reviews at the operating license stage conducted under the original rule, the Commission has found in every case that the state and local public utility commissions could be counted on to provide all reasonable operating costs to licensees, including costs of compliance with NRC requirements associated with safe plant operation. As a result, electric utilities applying for operating licenses have invariably been found financially qualified. This case experience bolsters the Commission's conclusion that as a generic matter electric utilities should be presumed financially qualified to operate the nuclear plants they have constructed and that further case-by-case review on this issue is neither necessary nor productive.

Accordingly, the Commission proposes to eliminate the financial qualifications review at the operating license stage for nuclear power reactor operating license applicants who are regulated public utilities or who are authorized to set their own rates. The Commission proposes to retain its current review under § 50.33(f) at the construction permit stage, and at the operating license stage for applicants for any production or utilization facility licenses who are not electric utilities having either a regulated status or the authority to set their own rates for service. The § 50.33(f) financial qualifications review is also unchanged as to production or utilization facilities not covered by § 50.21b or § 50.22, *i.e.*, medical utilization facilities, research and development facilities, and testing facilities.

II. Invitation to Comment

The Commission seeks comment on this proposed rule. In addition, all interested parties are invited to comment on whether financial qualifications review might be eliminated completely for all license or permit applicants including, but not limited to, electric utilities, on the

[1] A study of state public utility commissions, the Federal Energy Regulatory Commission and publicly owned utilities is currently being conducted by the National Association of Regulatory Utility Commissioners to determine whether, historically, utilities which have requested rate increases or rate provisions for operating safety requirements have regularly received them. The results of the study are expected to be available before promulgation of the final rule. If this study should indicate that Commission is mistaken in its present view that the late process assures electric utilities the financial resources needed for safe operation, the Commission will of course reassess its position on the proposed rule.

ground that no link has been shown between financial qualification reviews and assurance of safety. The Commission's experience leads it to question whether pre-licensing reviews of applicants' future ability to pay for the cost of safety measures provide any significant additional assurance of safety beyond the assurance provided by the prelicensing review of facility structures, systems and components, operating and materials handling procedures, and technical qualifications, and by the Commission's inspection and enforcement program. However, the Commission has not conducted any detailed study to determine whether there exists any significant correlation between its financial qualifications reviews and later safe operation and use of nuclear materials. Therefore, the Commission does not propose such a rule at this time but might consider doing so later if there is adequate support. Commenters are invited to address this issue.

III. Additional Information That Can Be Required

By this proposed rule, the Commission does not intend to waive or relinquish its residual authority under Section 182a of the Atomic Energy Act of 1954, as amended, to require such additional information in individual cases as may be necessary for the Commission to determine whether an application should be granted or denied or whether a license should be modified or revoked. In addition, an exception to or waiver from the proposed rule precluding consideration of financial qualifications in an operating license proceeding could be made if, pursuant to 10 CFR 2.758, special circumstances are shown. For example, such an exception to permit financial qualifications review for an operating license applicant might be appropriate where a threshold showing is made that, in a particular case, the local public utilities commission will not allow the total cost of operating the facility to be recovered through rates.

IV. Practical Impacts

The proposed rule will, in normal circumstances, reduce the time and effort which the applicants, licensees, the NRC staff and NRC adjudicatory boards devote to reviewing the applicant's or licensee's financial qualifications in comparison to the rule which existed before March 31, 1982. The proposed rule aims at eliminating staff review at the operating license stage in cases where the applicant is an electric utility presumed to be able to finance activities to be authorized under the license. The rule will be applied both to ongoing licensing reviews and proceedings and to past proceedings subject to the remanded rule. The rationale for the proposed rule is in effect a generic determination that regulated public utilities are financially qualified to operate nuclear power plants. Accordingly, a decision by the Commission to make the proposed rule final will amount to a generic resolution of financial qualifications issues that may be pending in operating license proceedings involving electric utilities. NRC neither intends nor expects that the rule will affect the scope of any issues or contentions related to a cost/benefit analysis performed pursuant to the National Environmental Policy Act of 1969. Under NEPA, the issue is not whether the applicant can demonstrate reasonable assurance of covering certain projected costs, but what costs to the applicant of constructing and operating the plant are to be put into the cost-benefit balance. As is now the case, the rule of reason will continue to govern the scope of what costs are to be included in the balance, and the resulting determinations may still be the subject of litigation.

Commissioner Bernthal's Additional Views

As a general policy matter, I have always questioned whether the NRC has the necessary resources and expertise to justify its involvement in assessing financial qualifications of applicants. An assessment of financial qualifications, in my view, is clearly not required under the Atomic Energy Act (Section 182), which only requires an applicant to include such information in an application as the Commission, by rule or regulation, "may deem necessary to decide such of the . . . financial qualifications of the applicant . . . as the Commission may deem appropriate for the license." Thus, the option clearly lies with the Commission to determine whether any financial information is required for the Commission to carry out its public health and safety responsibilities.

Nor is it clear that the Commission has the capability to act on a wise and informed basis in making judgments of financial qualification. Such matters, in every case, ultimately remain within the purview of the state and local public utility commissions; no matter what finding the Commission might make in judging financial capability of a utility, the public utility commissions have final authority to render a Commission finding meaningless and inaccurate.

I do not believe that the NRC should second-guess the public utility commission of jurisdiction on the question of what constitutes financial qualification of an applicant. The principal question, therefore, is whether the task of the Commission to insure public health and safety would be rendered unacceptably more difficult by the possible financial inadequacy of a utility.

Should an applicant find itself in financial difficulty, its options are two: to delay or abandon the project, or alternatively, to cut corners on safety. There are no health and safety implications if applicant chooses the first course. If an applicant chooses the second course, that is clearly the Commission's concern.

However, denying a license for lack of financial qualification in this context means that the Commission would be prejudging the ability of applicant to construct and operate the plant consistent with public health and safety; the Commission would be denying a license because of *the possibility* that the applicant might cut corners on safety. That finding, in turn, must stem from a conclusion that the applicant *may* not have the requisite character and integrity to carry out its responsibilities pursuant to the Commission's regulations. Thus, the Commission would, in effect, be making an adverse finding on the character and integrity of the applicant without any basis for doing so other than financial status of the applicant. Denial of a license by the Commission on this basis would be arbitrary and capricious, and could in my view, be successfully challenged as such. As noted earlier, a judgment on an applicant also amounts to a judgment on the public utility commission of oversight jurisdiction. For these reasons, I question whether the Commission should require any financial review *unless* there is an independent concern about the management integrity of an applicant.

I urge special public attention and comment on the Commission's alternative proposal, i.e. that the Commission completely eliminate financial qualifications review for all license or permit applicants, including but not limited to electric utilities, not only on the grounds that no link has been shown between financial qualification review and assurance of safety, but because even having carried out such a review, the Commission is powerless to insure continued financial qualification of an applicant, or to predict what financial resources the public utility commission of jurisdiction might place at applicant's disposal.

I hope that the pending NARUC study, along with the public comments on the

proposed rule, will shed further light on the appropriate role of the Commission in judging financial qualification of license applicants.

Commissioner Asselstine's Additional Views

"Commissioner Asselstine adds that he does not believe that the Commission now has sufficient documented evidence to support a final rule to exclude financial qualification reviews at the operating license stage. However, he supports issuance of the proposed rule for public comment in the expectation that the NARUC study and other comments submitted on the proposed rule may provide the documentation needed to support a final rule."

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, OMB Approval No. 3150-0011.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule reduces certain minor information collection requirements on the owners and operators of nuclear power plants licensed pursuant to sections 103 and 104b of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133, 2134b. These electric utility companies are dominant in their service areas. Accordingly, the companies that own and operate nuclear power plants are not within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Classified information, Confidential information, Freedom of information, Hazardous materials, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Fire prevention, Classified information, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, the NRC is proposing to adopt the following amendments to 10 CFR Parts 2 and 50.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134,2135,2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.300-2.309 also issued under Pub. L. 97-415, 96 Stat. 2071 (42 U.S.C. 2133). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 557.

Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.4, paragraph (s) is revised to read as follows:

§ 2.4 Definitions.

As used in this part,

* * * * *

(s) "Electric utility" means any entity that generates or distributes electricity and which recovers the costs of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and state and federal agencies, including associations of any of the foregoing, are included within the meaning of "electric utility."

3. In § 2.104, paragraph (c)(4) is revised to read as follows:

§ 2.104 Notice of hearing.

* * * * *

(c) * * *

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the regulations in this chapter, except that the issue of financial qualifications shall not be considered by the presiding officer in an operating license hearing if the applicant is an electric utility seeking a license to operate a utilization facility of the type described in § 50.21(b) or § 50.22;

* * * * *

4. In Appendix A to Part 2, paragraph (b)(4) of Section VIII is revised to read as follows:

Appendix A—Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses for Production and Utilization Facilities for Which a Hearing Is Required Under Section 189A of the Atomic Energy Act of 1954, as Amended.

* * * * *

VIII. Procedures Applicable to Operating License Proceedings

* * * * *

(b) * * *

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the Commission's regulations, except that the issue of financial qualifications shall not be considered by the board if the applicant is an electric utility seeking a license to operate a utilization facility of the type described in § 50.21(b) or § 50.22.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 68 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5848), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50-78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as

amended (42 U.S.C. 2201(b), §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

6. In § 50.2, paragraph (x) is revised to read as follows:

§ 50.2 Definitions.

As used in this part,

* * * * *

(x) "Electric utility" means any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and state and federal agencies, including associations of any of the foregoing, are included within the meaning of "electric utility."

7. In § 50.33, paragraph (f) is revised to read as follows:

§ 50.33 Contents of applications; general information.

Each application must state:

* * * * *

(f) Except for an electric utility applicant for a license to operate a utilization facility of the type described in § 50.21(b) or § 50.22, information sufficient to demonstrate to the Commission the financial qualifications of the applicant to carry out, in accordance with regulations in this chapter, the activities for which the permit or license is sought. As applicable, the following should be provided:

(1) If the application is for a construction permit the applicant shall submit information that demonstrates that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs. The applicant shall submit estimates of the total construction costs of the facility and related fuel cycle costs, and shall indicate the source(s) of funds to cover these costs.

(2) If the application is for an operating license, the applicant shall submit information that demonstrates the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license, plus the estimated costs of permanently shutting the facility down and maintaining it in a safe condition. The applicant shall submit estimates for total annual operating costs for each of the first five years of operation of the facility and estimates of the costs to permanently shut down the facility and maintain it in a safe condition. The applicant shall also indicate the source(s) of funds to cover these costs. An application to renew or extend the term of an operating license must include the same financial information as required in an application for an initial license.

(3) Each application for a construction permit or an operating license submitted by a newly-formed entity organized for the primary purpose of constructing or operating a facility must also include information showing:

(i) The legal and financial relationships it has or proposes to have with its stockholders or owners;

(ii) Their financial ability to meet any contractual obligation to the entity which they have incurred or propose to incur; and

(iii) Any other information considered necessary by the Commission to enable it to determine the applicant's financial qualifications.

(4) The Commission may request an established entity or newly-formed entity to submit additional or more detailed information respecting its financial arrangements and status of funds if the Commission considers this information appropriate. This may include information regarding a licensee's ability to continue the conduct of the activities authorized by the license and to permanently shut down the facility and maintain it in a safe condition.

* * * * *

8. In § 50.40, paragraph (b) is revised to read as follows:

§ 50.40 Common standards.

* * * * *

(b) The applicant is technically and financially qualified to engage in the proposed activities in accordance with the regulations in this chapter. However, no consideration of financial qualifications is necessary for an electric utility applicant for an operating license for a utilization facility of the type described in § 50.21(b) or § 50.22.

* * * * *

9. In § 50.57, footnote one is set out for the convenience of the reader and paragraph (a)(4) is revised to read as follows:

§ 50.57 Issuance of operating license.[1]

(a) * * *

(4) The applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations in this chapter. However, no finding of financial qualifications is necessary for an electric utility applicant for an operating license for a utilization facility of the type described in § 50.21(b) or § 50.22.

* * * * *

10. In Appendix M to Part 50, paragraph 4.(b) is revised to read as follows:

Appendix M—Standardization of Design; Manufacture of Nuclear Power Reactors; Construction and Operation of Nuclear Power Reactors

* * * * *

4. * * *

(b) The financial information submitted pursuant to § 50.33(f) shall be directed at a demonstration of the financial qualifications of the applicant for the manufacturing license to carry out the manufacturing activity for which the license is sought.

* * * * *

Dated at Washington, D.C., this 28th day of March 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-8716 Filed 3-30-84; 8:45 am]

BILLING CODE 7590-01-M

[1] The Commission may issue a provisional operating license pursuant to the regulations in this part in effect on March 30, 1970, for any facility for which a notice of hearing on an application for a provisional operating license or a notice of proposed issuance of a provisional operating license has been published on or before that date.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Surety Bond and Insurance Coverage for Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposed rule to revise, update and simplify the existing § 701.20—Surety Bond and Insurance Coverage for Federal Credit Unions ("FCUs"). The proposal is issued pursuant to NCUA's ongoing program of regulatory review. Section 701.20 sets forth the requirements for surety bond coverage for losses caused by credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union (e.g., losses due to theft, holdup or vandalism). The proposal would change

the requirement that each FCU board of directors conduct a semiannual review of bond and insurance coverage to a requirement for an annual review. It would also change the requirement for faithful performance bond coverage for all officers and employees. Under the proposal, faithful performance coverage would be required only of the financial officer of the credit union. Fraud and dishonesty coverage would continue to be required for all officers and employees. The proposal also contains new schedules for minimum bond and insurance coverage and maximum deductibles. The regulation has been rewritten in plain English and portions of the regulation that are redundant with the Federal Credit Union Act ("Act") and/or regulations have been deleted.

DATE: Comments must be received on or before June 4, 1984.

ADDRESS: Send comments to Rosemary Brady, Secretary, NCUA Board, 1776 G Street, NW., Washington, D.C., 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Director, Department of Legal Services, or Hattie Ulan, Staff Attorney, NCUA, at the above address or Telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION:

1. Background

The Act sets forth statutory requirements for the bonding of credit union employees and appointed and elected officials. (*See* Sections 112, 113(2) and 120(h) of the Act, 12 U.S.C. 1761a, 1761b(2) and 1766(h).) The NCUA Board is directed to promulgate regulations setting forth both the amount and character of bond requirements for employees and officials. The Act requires a bond for faithful performance coverage of the financial officer of the credit union. The NUCA Board is also granted the following powers concerning bonding:

To approve bond forms;

To set minimum requirements for bond coverage;

To require such other surety coverage as the Board may determine to be reasonably appropriate;

To approve a blanket bond in lieu of individual bonds; and

To approve bond coverage in excess of minimum surety coverage.

In addition, NCUA's general rulemaking authority provides a statutory basis for both the bonding requirements of § 701.20 and the insurance coverage requirements related to losses caused by persons outside the credit union (*see*, Sections 120(a) and 290(a)(11) of the Act, 12 U.S.C. 1766(a), 1789(a)(11)).

On June 2, 1981, the NCUA Board published a proposed regulation in the **Federal Register** (47 FR 29482) simplifying the current regulation and establishing new minimum coverage and deductible requirements. A final rule was not promulgated. At this time, the NCUA Board is again requesting comments on a new proposed surety bond and insurance coverage regulation. This proposal is similar to the one made in 1981. The major distinction is that this proposal, if adopted, would eliminate required faithful performance coverage for all officials and employees, except for the financial officer.

2. Present Regulation and Proposed Changes Thereto

The following lettered paragraphs first describe the current regulation and then describe and analyze the proposed change.

a. *Scope section.* New 701.20(a)—The present regulation does not contain a scope section. It is being added by this proposal to clearly describe what is covered by the regulation. The regulation only addresses surety bond coverage for losses caused by credit union employees and officials and general insurance coverage for losses caused by persons outside of the credit union (e.g., protection for losses due to theft, holdup or vandalism). This regulation does not address account insurance coverage by the National Credit Union Share Insurance Fund. Account insurance coverage is addressed in Part 745 of NCUA's regulations, 12 CFR Part 745. Nor does the regulation address insurance coverage for losses due to fire or disturbances of nature (e.g., for losses due to hurricane or earthquake). This is not to say that the NCUA Board believes that fire and disaster insurance are not appropriate for FCUs. Rather, NCUA has chosen not to set specific requirements for such insurance through regulation. Such insurance is obtained in the normal course of business. The decision as to the precise nature and amount of coverage is left to the business judgment of each FCU.

b. *Review of coverage.* Present 701.20(a)—Requires the board of directors to conduct a semiannual review of all insurance coverages, including surety coverage.

Proposed Change—New 701.20(b)—The proposal requires that the board of directors conduct an annual rather than a semiannual review. It is incumbent upon each board of directors to carefully review coverages, deductibles and costs when designing a surety and insurance program that both meets the minimum requirements of NCUA's regulation and most efficiently deals with the risks of operating the credit union. Critical to any decision on surety coverage is the need to ensure that the credit union's solvency is not impaired by a non-covered loss. Safety and soundness considerations would dictate that each credit union's board of directors perform at least an annual review of surety and insurance coverage. Rapid growth in a given credit union or other circumstances may dictate a more frequent review.

c. *Faithful performance coverage.* Present 701.20(b)—Requires that all surety bonds provide faithful performance of duty coverage for any officer or employee while performing any of the duties of the treasurer. The bond forms approved under the current regulation extend coverage for faithful performance to *all* credit union employees and officials, excluding directors acting as directors. The approved bond forms also provide coverage for the fraud or dishonesty of all employees and officials.

Proposed Change—New 701.20(c)—Pursuant to Section 112 of the Act, only the board-elected financial officer is *required* to give a bond conditioned upon the faithful performance of his/her trust. [The Act was amended in 1982 to require this bond of the financial officer rather than the treasurer.) Thus, the regulation and approved forms, in requiring the coverage for all employees and officials, exceed the minimum requirement of the Act. Also, this coverage, as compared to fraud and dishonesty coverage, imposes a strict standard of care that court decisions have interpreted to include coverage for the bonded officer's negligence. It has been suggested to NCUA that this coverage is becoming prohibitively expensive, that the requirement for this coverage is keeping potential underwriters out of the marketplace for credit union bonds, and that the coverage is inconsistent with the bond standards that exist in financial institutions generally. Accordingly, as a means of obtaining comment on these issues, the Board has proposed to eliminate the faithful performance coverage requirement for officials and employees other than the financial officer. Of course, the requirement for coverage of the financial officer cannot be eliminated by regulation inasmuch as it is imposed by the Act. In this connection, the proposed regulations defines financial officer as the official of the credit union responsible for performing the duties of the financial officer as prescribed in Article VIII, Section 5 of the Federal Credit Union

Bylaws. If a final change is adopted, the approved bond form will be revised in conjunction with the final regulation. It is noted both that the NCUA Board would retain the authority to require more than the minimum coverage in individual cases (see section 120(h) of the Act) and that each FCU board would retain the ability to obtain faithful performance coverge for other officials and employees.

d. *Fraud and dishonesty.* New 701.20(c)—Section 113(2) of the Act requires that any FCU officer or employee handling funds give a bond in compliance with regulations of the Board. Section 120(h) of the Act requires that every person appointed or elected by an FCU to a position requiring the receipt, payment or custody of the FCU's money or personal property give bond with reference to loss by reason of fraud or dishonesty on a form approved by the Board. The current regulation does not contain a fraud or dishonesty requirement, but such coverage is provided for in the bond forms approved in the regulation. The Proposal contains a requirement for all employees, committee members and directors to give bond covering their fraud or dishonesty. This change will simply make the regulations and approved bond language consistent with each other.

e. *Bond forms.* Present 701.20(c)—Section 120(h) of the Act directs that the NCUA Board approve bond forms prior to their use by FCUs. Section 701.20(c) implements this requirement. This section provides that only NCUA Board-approved bond forms may be used and establishes Standard Form 23 as the minimum acceptable coverage. It also provides approval for other types of blanket bond forms.

Proposed Change—New 701.20(c)—While the language of this section is simplified, the content remains basically unchanged. In addition to Credit Union Blanket Bond Form No. 23, Credit Union Blanket Bond Forms 576, 577, 578, 579, 580 and 581 are approved in the current regulation. Each approved bond provides both the surety and insurance coverages required by the Act and NCUA's regulations. Bond Form 581 is by far the most common bond form in use today. The NCUA Board believes that bond forms 576, 577, 578, 579 and 580 may not be in use at all. For that reason the NCUA Board proposes that the approval of Forms 576, 577, 578, 579, and 580 be revoked in the final regulation. Specific comments are requested on the proposed revocation of these bond forms. If the forms are in use, their approval will not be revoked. Bond Forms 23 and 581 and any other forms approved in the final regulation will be revised prior to the effective date of any final regulation to reflect any change in who must be bonded for faithful performance.

f. *Certificate of authority.* Present 701.20(d)—Requires that Federal credit unions obtain bond coverage from companies which hold a cerificate of authority from the Secretary of the Treasury.

Proposed Change—Deletion—This section is proposed to be deleted because it duplicates the language in Section 120(h) of the Act. It should be borne in mind that the requirement itself remains in force.

g. *Cash fund and cash in transit.* Present 701.20(e)—Requires that coverage be increased to the greater of the FCU's daily cash fund or cash in transit when either exceeds minimum requirements. The increased coverage must be obtained within thirty days after discovery of the need for the increase.

Proposed Change—New 701.20(e)—While the language of this section is simplified, the content remains unchanged. This section remains necessary so that an FCU will be insured for its entire potential loss of cash should one of the insuring clauses of the bond be invoked (less any applicable deductible). If an FCU is robbed the bond will cover the entire potential loss under this section of the regulation.

h. *Minimum coverage.* Present 701.20(f)—Establishes a schedule of minimum surety and insurance coverages for FCUs according to asset size and fixes responsibility with the board of directors of each FCU to ensure adequate coverage.

Proposed Change—New 701.20(d)—The schedule of minimum coverages is simplified. While the schedule would appear to increase the minimum required coverage for credit unions with less than $50,000 in assets, this is not expected to have any practical impact inasmuch as it is NCUA's understanding that the actual bonds on these credit unions are routinely written in amounts equalling or well in excess of their assets. Comment is of course welcome on this point. The minimum coverage for FCUs with between $50,000 and $1,000,000 in assets is decreased. Credit unions with more than $50,000,000 in assets have a slight decrease in required bond coverage. The ceiling of $5,000,000 on minimum coverage requirements has been retained. The following tables show the minimum coverages from the current regulation and the proposal:

CURRENT REGULATION

Assets	Minimum coverage
$0 to 5,000	$1,000
$5,001 to $10,000	2,000
$10,001 to $20,000	4,000
$20,001 to $30,000	6,000
$30,001 to $40,000	8,000
$40,001 to $50,000	10,000
$50,001 to $75,000	15,000
$75,001 to $100,000	20,000
$100,001 to $150,000	30,000
$150,001 to $200,000	40,000
$200,001 to $300,000	50,000
$300,001 to $400,000	60,000
$400,001 to $500,000	70,000
$500,001 to $750,000	85,000
$750,001 to $1,000,000	100,000
$1,000,001 to $50,000,000	[1]100,000
$50,000,001 to $150,000,000	[2]2,500,000
Over $150,000,000	5,000,000

[1] Plus $50,000 for each million or fraction thereof of assets over $1,000,000.
[2] Plus $25,000 for each million or fraction thereof of assets over $50,000,000.

PROPOSAL

Assets	Minimum bond
$0 to $10,000	Coverage equal to the credit union's assets.
$10,001 to $1,000,000	$10,000 for each $100,000 or fraction thereof.
$1,000,001 to $50,000,000	$100,000 plus $50,000 for each million or fraction thereof over $1,000,000.
$50,000,001 to $295,000,000.	$2,550,000 plus $10,000 for each million or fraction thereof over $50,000,000.
Over $295,000,000	$5,000,000

A credit union may choose to have more than the minimum surety and insurance coverage if deemed appropriate by its board of directors. Section 120(h) of the Act requires the NCUA Board to set reasonable standards for bond coverage. The NCUA Board believes that the proposed changes in minimum coverage will give each board of directors more flexibility while at the same time maintaining the requirement in the Act for reasonable standards. Beyond these minimum standards, it is the board of directors' duty to ensure that areas of risk or loss exposure under each surety or insuring clause are covered in an amount necessary to protect the credit union.

i. *NCUA Board approval for reduced coverage.* Present 701.20(g)—Establishes that the schedule provided in Section 701.20(f) is the minimum coverage for all surety bonds for Federal credit unions and requires that reduced coverage have the prior approval of the NCUA Board.

Proposed Change—New 701.20(g)—The language of this section of the present regulation is redundant with the Act and other sections of the regulation. Therefore, most of the verbiage has been deleted in the proposal. The information concerning mandatory advanced approval for credit unions seeking a

reduction in minimum coverage is retained in the proposal.

j. *Deductibles.* Present 701.20(h)—Establishes a schedule of permissible deductibles for required coverages, prohibits deductibles for dishonesty and lack of faithful performance and requires that increased deductibles have the prior approval of the NCUA Board.

Proposed Change—New 701.20(h)—Two alternative new deductible schedules are set out in this section. The first appeared in the 1981 proposal. The second was informally suggested to NCUA by an underwriter of credit union surety bonds. Comments and preferences on these two options are requested. Both options represent substantial changes from the current regulation. First, the maximum amount of deductible has been increased, and second, the deductible has been made permissible for any bond coverage, including loss due to lack of faithful performance and fraud or dishonesty. Both options allow an FCU's board of directors more flexibility in making rational economic decisions on coverage versus risk. At the same time the proposals do not allow the deductible to become so large as to endanger an FCU's safety and solvency. It is hoped that these changes will aid in preventing the steady escalation of premium costs. The following tables show the deductibles allowed under the present regulation and the two options set out in the proposal:

CURRENT REGULATION

Assets	Maximum deductible
$0 to $100,000	No deductible allowed.
$100,001 to $250,000	$500.
$250,001 to $500,000	$750.
$500,001 to $750,000	$1,000.
$750,001 to $1,000,000	$1,500.
$1,000,001 to $2,000,000	$2,000.
$2,000,001 to $3,000,000	$3,000.
$3,000,001 to $5,000,000	$4,000.
Over $5,000,000	$5,000.

PROPOSAL—OPTION A

Assets	Maximum deductibles
$0 to $100,000	No deductible allowed.
$100,001 to $250,000	$1,000.
$250,001 to $1,000,000	$2,000.
Over $1,000,000	$2,000 plus 1/1000 of total assets up to a maximum deductible of $200,000.

PROPOSAL—OPTION B

Assets	Maximum deductibles
Less than $500,000	$1,000.
$500,000 to $5,000,000	$5,000.
$5,000,001 to $10,000,000	$10,000.
$10,000,001 to $25,000,000	$15,000.
$25,000,001 to $50,000,000	$20,000.
$50,000,001 to $100,000,000	$25,000.
Over $100,000,000	$100,000.

The proposed regulation retains the provision of the present rule that no deductible may exceed ten percent of an FCU's Regular Reserve unless a Contingency Reserve for the amount of the deductible is set aside. While a credit union with little or no reserves may be well operated and solvent, there may not be enough capital to write off the deductible portion of the loss and the uncovered loss would impair the soundness of a credit union.

3. Federally Insured State Chartered Credit Unions

Part 741 of NCUA's regulations requires, as a condition of account insurance coverage by the National Credit Union Share Insurance Fund (NCUSIF), that a credit union possess the minimum bond coverage stated in Section 701.20. Thus, the proposed changes to Section 701.20 would affect state chartered credit unions whose accounts are insured by NCUSIF. The Board welcomes comments from those credit unions and their state supervisory authorities on the advisability of the proposed changes.

Regulatory Procedures

The NCUA Board has determined and certifies that the proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the proposed regulation reduces restrictions, lowers minimum coverage requirements and increases management flexibility. Therefore, a regulatory flexibility analysis is not required. Since the proposed rule would relieve burdens and delays would cause unnecessary harm, the NCUA Board also finds that full and separate consideration of all of the requirements of the Financial Regulation Simplification Act is impractical. Most of these policies, however, have been considered by the NCUA Board as set forth in the above discussion.

List of Subjects in 12 CFR Part 701

Credit unions, Surety bonds.

Authority: 12 U.S.C. 1761a; 12 U.S.C. 1761b; 12 U.S.C. 1766 (a) & (h); 12 U.S.C. 1789(a)(11).

Dated: March 22, 1984.

Rosemary Brady,

Secretary of the Board.

PART 701—[AMENDED]

It is proposed that § 701.20 of the NCUA Rules and Regulations be revised to read as follows:

§ 701.20 Surety Bond and Insurance Coverage for Federal Credit Unions.

(a) *Scope.* This Part provides the requirements for surety bonds for credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union (protection for losses due to theft, holdup, vandalism, etc.).

(b) *Review of coverage.* The board of directors of each Federal credit union shall, at least annually, carefully review the bond and insurance coverage in force in order to ascertain its adequacy in relation to risk exposure and to the minimum requirements fixed from time to time by the Board.

(c) *Minimum Coverage; Approved Forms.* Every Federal credit union will maintain bond and insurance coverage with a company approved by the NCUA Board. Credit Union Blanket Bond Standard Form No. 23 of the Surety Association of America (revised to May, 1950) plus new Faithful Performance Rider (faithful performance coverage for the individual charged with the responsibilities of the financial officer set forth in Article VIII, Section 5 of the Federal Credit Union Bylaws) is considered the minimum coverage required and is approved. Credit Union Blanket Bond Form 581 (with new faithful performance rider) is also approved. Any other form must receive the prior written approval of the NCUA Board. All surety bonds must provide faithful performance of duty coverage for the financial officer elected by the board of directors. Surety bonds must provide coverage for the fraud and dishonesty of all employees, directors, officers, and supervisory and credit committee members.

(d) *Minimum Coverage Amounts.* The minimum amount of bond coverage required will be computed based on the credit union's total assets. The following table lists the minimum requirements:

Assets	Minimum bond
$0 to $10,000	Coverage equal to the credit union's assets.
$10,001 to $1,000,000	$10,000 for each $100,000 or fraction thereof.
$1,000,001 to $50,000,000	$100,000 plus $50,000 for each million or fraction thereof over $1,000,000.
$50,000,001 to $295,000,000.	$2,550,000 plus $10,000 for each million or fraction thereof over $50,000,000.

Assets	Minimum bond
Over $295,000,000	$5,000,000.

It is the duty of the board of directors of each Federal credit union to provide adequate protection to meet its unique circumstances by obtaining, when necessary, bond and insurance coverage in excess of the above minimums.

(e) *Increased Coverage, Cash On Hand Or In Transit.* When either of the following amounts exceed a Federal credit union's minimum coverage limits as specified in paragraph (d) of this regulation, the minimum coverage limits for that Federal credit union will be increased to be equal to the greater of the following amounts within thirty days of the discovery of the need for such increase:

(1) The aggregate amount of the daily cash fund (change fund plus maximum anticipated daily receipts) and food stamps (if any), on the Federal credit union's premises, or

(2) The aggregate amount of the Federal credit union's money, currency, coin, banknotes, Federal Reserve notes and food stamps (if any) placed in transit in any one individual shipment.

(f) *Increased Cash Coverage; Exception.* Subsection (e) notwithstanding, no increase in coverage will be required where a Federal credit union temporarily increased its cash fund because of an extraordinary event which reasonably cannot be expected to recur.

(g) *Reduced Coverage; NCUA Approval.* Any proposal for reduced coverage must be approved in writing by the NCUA Board at least 20 days in advance of the proposed effective date of the reduction.

(h) *Deductibles.* (1) The maximum amount of deductibles allowed are based on the credit union's total assets. The following table sets out the maximum deductibles:

OPTION A

Assets	Maximum deductibles
$0 to $100,000	No deductibles allowed.
$100,001 to $250,000	$1,000.
$250,001 to $1,000,000	$2,000.
Over $1,000,001	$2,000 plus 1/1000 of total assets up to a maximum deductible of $200,000.

OPTION B

Assets	Maximum deductibles
Less than $500,000	$1,000
$500,000 to $5,000,000	5,000
$5,000,001 to $10,000,000	10,000
$10,000,001 to $25,000,000	15,000
$25,000,001 to $50,000,000	20,000

OPTION B—Continued

Assets	Maximum deductibles
$50,000,001 to $100,000,000	25,000
Over $100,000,000	100,000

(2) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those shown in this section must have the written approval of the NCUA Board at least 20 days prior to the effective date of such deductibles.

(3) No deductible will exceed ten percent of a Federal credit union's Regular Reserve unless the credit union creates a segregated Contingency Reserve for the amount of the deductible. Valuation allowance accounts, e.g., allowance for loan losses, may not be considered part of the Regular Reserve when determining the maximum deductible.

(i) *Additional Coverage.* The NCUA Board may require additional coverage for any Federal credit union when, in the opinion of the Board, current coverage is insufficient. The board of directors of the Federal credit union must obtain additional coverage within 30 days after the date of written notice from the NCUA Board.

[FR Doc. 84-8662 Filed 3-30-84; 8:45 am]
BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: In conjunction with an SBA notice of policy published concurrently in the Federal Register which authorizes deposits in small minority owned and controlled financial institutions (as defined in that notice as specific commercial banks and savings and loan associations) to qualify as subcontracts for purposes of meeting subcontracting goals and credits, this size standard is needed to establish what constitutes a small financial institution. This regulation would establish, upon publication in final form in the Federal Register, a size standard applicable to financial institutions. SBA has determined that a financial institution with assets of not more than $100 million will be considered small.

DATE: Comments will be received until June 1, 1984.

ADDRESS: Comments should be addressed to Andrew A. Canellas, Director, Size Standards Staff, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Andrew A. Canellas; (202) 653-6373.

SUPPLEMENTARY INFORMATION: SBA has set forth a notice of policy with respect to the interpretation of sections 8(d) and 15(g) of the Small Business Act, 15 U.S.C. 637(d) and 644(g). This policy broadens the definition of the term "subcontract" for purposes of these sections. It permits contracts for provision of specified services by small minority owned and controlled financial institutions to qualify as subcontracts for purposes of meeting subcontracting goals and credits. Consequently, a size standard is needed for financial institutions to establish which minority financial institutions are to be considered small for purposes of that notice.

Several minority banks have indicated to SBA that permitting contracts for financial services, including deposits, by prime contractors with minority financial institutions to meet subcontracting goals and credits is urgently needed to sustain the minority banking community. Furthermore, in SBA's opinion such a position will result in enhanced availability of capital to small and minority owned businesses since the financial institutions providing such services will be better able to service these businesses. This is the case because of the "pass-through effect" that additional deposits in minority financial institutions would have on minority businesses. The pass-through effect presumes that more money deposited in minority financial institutions would make more loans available at more favorable terms to minority bsuinesses and individuals because such businesses and individuals are likely to be located in the vicinity of minority financial institutions. This would result in aiding the development of minority businesses, which is also urgently needed. Such a position by SBA is consistent with the letter and intent of section 7(j)(9) of the Small Business Act.

Rationale for the Rule

SBA has determined that a size standard for financial institutions should be based upon the assets of the financial institution since this is a commonly accepted measure of bank size. In a study of bank size and financial performance by Kolari and Fraser done for SBA entitled "Size and

Financial Performance in Banking," the authors note the "inherently arbitrary dichotomy between small and large banks." While this may be so, there is a rought consensus among persons who write about banking and size distinctions. SBA reviewed several opinions regarding the size of a small bank. These opinions come from various articles which generally examine banks' performance, industry structure, and competition.

These opinions indicate that the range of $25–$100 million in assets constitutes a small bank. Within this range, data compiled by the Federal Deposit Insurance Corporation permit examination of three size classes: $25, $50, and $100 million. As indicated in Table 1 below, about 85 percent of all banks have assets of less than $100 million, and the average bank size is $149 million in assets.

Data on minority-owned bank sizes have been provided to SBA by the Federal Reserve System. Table 3 below has been constructed from these data. The differences in assets between all banks, Table 2 below, can thus be compared to Table 3 for minority-owned banks. As expected, minority banks generally have less assets, and control of assets is more dispersed among a greater number of these banks. Average size is $43 million in assets compared to $149 million for all banks.

After inspection of this data, various size standards for a small bank were considered by SBA's Size Standards Staff. Clearly a size standard of $25 million in assets would be too small, as it encompasses only 4 percent of all bank assets and 16 percent of minority bank assets. At the other extreme, a size standard of $300 million in assets is so large that most states have only a few banks in this size category. In addition, there are only two minority-owned banks with $300 million in assets.

The two other size standard candidates are $50 and $100 million, both within the range suggested above in the cited articles. On average, a bank with $50 million in assets would do business from a head office and one branch; at $100 million in assets, a second or third branch might be added, although this varies considerably. The $100 million bank is also more likely to be capable of handling electronic funds transfers, a faster paperless way of handling money.

Banks of $50 million or less in assets have 9 percent of all assets; for $100 million, this increases to 17 percent and includes 85 percent of all banks. For minority banks, 38 percent of assets are in banks having $50 million in assets or less; 64 percent are in banks having $100 million in assets or less, representing 95 percent of minority-owned banks. For minority-owned banks, a size standard of $50 million would include 73 of 96 banks; at $100 million, 89 banks would be included.

SBA thus proposes that a size standard of $100 million in assets is within the range suggested by the available data. It falls midway between the $149 million all bank and $43 million minority bank average sizes; should be large enough to handle electronic funds transfer, yet excludes several of the largest minority-owned banks. This size standard would exclude only the largest 15 percent of all financial institutions in the United States, which clearly are not in need of the benefits available by being categorized as small. This standard would result in making the minority banking program, for which this rule is being proposed, available to all but the 7 largest minority-owned banks. For these reasons, SBA proposes that a financial institution with assets of not more than $100 million will be considered small.

For purposes of Executive Order 12291 and the Regulatory Flexibility Act, SBA hereby states that this rule if promulgated in final form may result in significant economic impact upon the minority banking program which this rule is intended to facilitate may be such that this rule be considered a major rule. Therefore, the following regulatory analysis information is provided:

1. *Description of Potential Benefits of the Rule.* The benefit to be derived is the facilitation of the minority banking program described above.

2. *Description of Potential Costs of the Rule.* There are no costs associated with this rule.

3. *Description of Net Benefits of the Rule.* The rule will encourage the placement of deposits by Federal contractors in banks owned and controlled by socially and economically disadvantaged individuals. As such, those banks will be benefited, and the businesses which they serve will have more loanable funds available to them.

4. *Description of Reasons Why This Action is Being Considered.* This action is needed to facilitate the minority banking program described above.

5. *Statement of Legal Basis for the Proposed Rule.* 15 U.S.C. 632(a)).

6. *Description of Entities to Which the Proposed Rule Will Apply.* Commercial Banks and Savings and Loan Associations which are 51 percent owned by one or more socially and economically disadvantaged individuals; or in the case of a publicly owned institution, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose daily business operations are controlled by one or more such individuals.

7. *Description of Reporting and Recordkeeping Requirements.* There are none associated with this rule.

List of Subjects in 13 CFR Part 121

Inventions and patents, Small business.

PART 121—[AMENDED]

Accordingly, pursuant to section 3(a) of the Small Business Act, 15 U.S.C. 632(a), SBA hereby proposes to amend Part 121 of 13 CFR to add a new § 121.13 as follows:

§ 121.13 Definition of small business financial institution for purposes of sections 8(d) and 15(g) of the Small Business Act.

(a) For the purpose of sections 8(d) and 15(g) of the Small Business Act, a small financial institution is a commercial bank or savings and loan association the average annual assets of which for the preceding three fiscal years do not exceed $100 million.

(b) For purposes of this regulation, the term assets shall include all assets reflected on the institution's financial balance sheet for a given fiscal year.

TABLE 1

[Percent of banks and assets distributed by asset size of bank]

Bank size (all)	Less than $5M	$5–9.9M	$10–24.9M	$25–49.9M	$50–99.9M	$100–299.9M	$300–499.9M	$500–999.9M	$1–4.9B	$5B+
No. banks: 14,763	5	10	29	25	16	10	1	1	1	<1
Assets: $2,196,621 (millions)	<1	>1	3	6	6	10	4	6	18	44

TABLE 2

[Cumulative percent of banks and assets by bank size]

Bank size	Cumulative percent of assets	Cumulative percent of banks
$25M	4	44
$50M	9	69
$100M	17	85
$300M	27	95

Average size (assets)=$149M.
Median size (assets)=$31M.
Source: "1982 Statistics on Banking," Federal Deposit Insurance Corporation, Table 105, p. 20.

TABLE 3

[Cumulative percent of minority-owned banks and assets by bank size (1983)]

Bank size	Cumulative percent of assets	Cumulative percent of banks
$25M	16	50
$50M	38	76
$100M	64	95
$100M+	100	100

Average size (assets)=$43M.
Total assets in minority-owned banks=$4,117M.
Number of minority-owned banks=96.
Source: "Minority-Owned Banks by District, March 31, 1983" Computer Printout, Federal Reserve System, Division of Research and Statistics, Washington, D.C.

Dated: March 22, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-8362 Filed 3-30-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-13-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes a new airworthiness directive (AD) applicable to Boeing Model 747 series airplanes, which would require inspection of the body and canted bulkhead structure for cracks at the nose gear wheel well forward corners. This action is prompted by reports from five operators that twelve crack were found on nine airplanes. This action is necessary because an undetected cracks may result in sudden loss of cabin pressurization and extensive structural damage.

DATE: Comments must be received on or before May 21, 1984.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-13-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. O. E. Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2923. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-13-AD, 17900 Pacific Highway South,C-68966, Seattle, Washington 98166.

Discussion

The Boeing Company has conducted a structural reassessment of the Boeing Model 747 airplane as part of their program to develop a Supplemental Structural Inspection Document (SSID) for the airplane. In conducting this assessment, Boeing used advanced analysis techniques which were not available during the original design and certification of the Model 747 and used as guidelines the requirements of Federal Aviation Regulations (FAR) 25.571, Amendment 25-45. The reassessment included structural details that have a history of cracking. The analysis has revealed that certain of these details should receive increased emphasis in the maintenance program of operators to maintain the structural integrity of the airplane. The nose wheel well lower forward corners are one such detail.

Numerous cracks up to six inches long have been found by five operators in the body and canted buklhead structure at the nose gear wheel well forward corner on nine airplanes. These cracks are caused by a combination of cabin pressurization loads, flight loads, and landing loads.

Undetected, cracks in the exterior skin could progress forward to the next frame and cracks in the canted bulkhead could grow and result in sudden loss of cabin pressure and extensive structural damage.

Boeing has issued Service Bulletin 747-53-2112, Revision 3, which defines the specific procedures to be used to inspect for cracks in the body and canted bulkhead structure at the nose gear wheel well forward corners on certain Model 747 airplanes. A modification is described in the service bulletin which consists of installing skin doublers on certain airplanes and modifying the forward hinge fitting-to-body attachment on other airplanes. The repetitive inspection requirements would continue after modification.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections of the nose gear wheel well forward corners on certain Model 747 series airplanes.

It is estimated that 94 airplanes of U.S. operators would be affected by this AD, that it would take approximately 200 manhours per airplane to accomplish the required actions, and that the average labor cost would be $35 per manhour. Repair parts are estimated at $2000 per airplane. Based on these figures, the total cost impact of the proposed AD is estimated to be $850,000. This is a worst case analysis, since not all aircraft would need modification.

For these reasons the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-53-2112, Revision 3, dated November 4, 1983, or later FAA approved revisions. To prevent failure of the body skin and the canted pressure bulkhead structure, accomplish the following, unless already accomplished:

A. For airplanes that have not been modified in accordance with Service Bulletin 747-53-2112, Revision 3, or later FAA approved revisions;

(1) Within the next 250 landings for Group I airplanes and 500 landings for Group II airplanes after the effective date of this AD, or prior to the accumulation of 4,000 landings, whichever occurs later; and thereafter at intervals not to exceed 1000 landings for Group I airplanes and 2000 landings for Group II airplanes, visually inspect the nose gear wheel well lower forward corners exterior and interior area for cracks in accordance with the service bulletin. Additionally, high frequency eddy current (HFEC) inspect the chord and doubler for cracks at the two forward hinge fairing attach bolt locations identified for inspection in Service Bulletin 747-53-2112, Revision 3, or later FAA approved revisions.

(2) For Group I airplanes, if a crack is visible only from outside the airplane and has not progressed into the vertical leg of the nose wheel well forward bulkhead lower chord and does not extend forward of the first row of skin fasteners, repair may be deferred for 500 landings with inspection at 100 landing intervals. If the crack exceeds the above limits, repair in accordance with Service Bulletin 747-53-2112, Revision 3, or later FAA approved revisions, prior to next pressurized flight.

(3) If cracks are found on Group II airplanes, repair in accordance with a method approved by the Manager, FAA, Seattle Aircraft Certification Office prior to further flight.

B. For airplanes that have been modified in accordance with Service Bulletin 747-53-2112, Revision 3, or later FAA approved revisions; within the next 200 landings for Group I airplanes and 500 landings for Group II airplanes after the effective date of the AD or prior to the accumulation of the threshold landings specified in Table I, below, whichever occurs later, inspect the nose gear wheel well lower forward corners in accordance with Table I. Reinspect at intervals not to exceed those specified in Table I. If cracks are found, repair in accordance with an FAA approved procedure prior to further flight.

C. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. For purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's time in service by the operator's fleet average from takeoff to landing for the airplane type.

E. Aircraft may be ferried to a base for maintenance if accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

F. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of an operator, if the request contains substantiating data to justify the adjustment period.

TABLE I.—NOSE GEAR WHEEL WELL LOWER FORWARD CORNER INSPECTION FOR CRACKS

[Applicable only for airplanes modified per Boeing Service Bulletin 747-53-2112, revision 3, or latest revision.]

Airplane and inspection	Inspection threshold landings	Repeat inspection interval landings
Group I		
Option I.—External inspection: Airplanes modified per S/B 747-53-2112, Rev. 3: Perform an external visual inspection of the structure adjacent to the left and right forward corners of the nose gear wheel well forward bulkhead in accordance with Service Bulletin 747-53-2112, Rev. 3.	Within 200 landings from effective date of AD, or 1,000 landings after modification, whichever is later.	100
Option II.—Internal inspection: Perform an internal visual inspection of the nose gear wheel well lower forward corner structure in accordance with Service Bulletin 747-53-2112, Rev. 3.	Within 200 landings from effective date of AD, or 1,000 landings after modification, whichever is later.	1,500
Group II: Airplanes modifed per S/B 747-53-2112, Rev. 3. Perform a low frequency eddy current inspection in the under skin doubler at the nose gear wheel well lower forward corners in accordance with Service Bulletin 747-53-2112, Rev. 3.	Within 500 landings from effective date of AD, or 6,000 landings after modification, whichever is later.	2,000

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291; and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities, since no small entities operate Boeing Model 747 airplanes. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on March 22, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-8645 Filed 3-30-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 84-NM-12-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes a new airworthiness directive (AD) applicable to Boeing Model 747 series airplanes, which would require inspection of the front spar pressure bulkhead chord for cracks. This action is prompted by reports of numberous cracks on five airplanes. An undetected crack could result in loss of cabin pressurization and extensive structural damage.

DATE: Comments must be received on or before May 21, 1984.

ADDRESSES: Send comments on this proposal in duplciate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-12-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. O. E. Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2926. Mailing

address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-12-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Boeing Company has conducted a structural reassessment of the Boeing Model 747 airplane as part of their program to develop a Supplemental Structural Inspection Document (SSID) for the airplane. In conducting this reassessment, Boeing used advanced analysis techniques which were not available during the original design and certification of the Model 747 and used as guidelines the requirements of Federal Aviation Regulation (FAR) 25.571, Amendment 25-45. The reassessment included structural details that have a history of cracking. The analysis has revealed that certain of these details should receive increased emphasis in the maintenance program of operators to maintain the structural integrity of the airplane. The front spar pressure bulkhead chords are one such detail.

Numberous cracks ranging from 0.10 to 2.0 inches have been found on five airplanes by two operators in the wing front spar pressure bulkhead lower chord. The cracks are caused by a combination of cabin pressurization loads, flight loads, and landing loads.

Cracks remaining undetected could grow and result in sudden loss of cabin pressurization and extensive structural damage.

Boeing has issued Service Bulletin 747-53-2064, Revision 4, which defines the specific inspection procedures to be used to inspect for cracks in the front spar pressure bulkhead chord on certain Model 747 airplanes. A modification is described in the service bulletin which consists of installing reinforcements to the front spar pressure bulkhead chord and reworking the drag splice fitting. The repetitive inspection requirements would continue after modification but at an increased interval.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspection and, if necessary, repair or modification of certain Model 747 series airplanes.

It is estimated that 102 airplanes of U.S. operators would be affected by this AD, that it would take approximately 422 manhours per airplane to accomplish the required actions, and that the average labor cost would be $35 per manhour. Repair parts are estimated at $3550 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $1,868,000. For these reasons the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-53-2064, Revision 4, dated September 23, 1983, or later FAA approved revisions. To prevent front spar pressure bulkhead chord failures, accomplish the following unless already accomplished:

A. For airplanes that have not been modified in accordance with Service Bulletin 747-53-2064, Revision 4, or latter FAA approved revisons; within the next 1000 landings after the effective date of this AD or prior to the accumulations of 10,000 landings, whichever occur later, and thereafter at intervals not to exceed 7000 landings, high frequency eddy current (HFEC) inspect the chord for cracks between stringers S-37 and S-39 at the chord radius, heel, and flanges adjacent to the fastener holes identified for inspection in Service Bulletin 747-53-2064, Revision 4, or later FAA approved revisions. If cracks are found in the pressure bulkhead chord, accomplish the repair and modification in accordance with the service bulletin before further flight. Repair of cracks along the chord radius under five inches in length or acorss a chord flange that have not severed the chord flange may be deferred 1000 landings by stop drilling and reinspecting for crack progression every 200 landings using high frequency eddy current. If crack progression is found, repair prior to further flight.

B. For airplanes that have been modified in accordance with Service Bulletin 747-53-2064, Revision 4, or later FAA approved revisions; within the next 1000 landings after the effective date of this AD or prior to the accumulation of 10,000 landings after the modification, whichever is later, and thereafter at intervals not to exceed 10,000 landings, high frequency eddy current (HFEC) inspect for cracks in the front spar pressure bulkhead lower chord heel from stringers S-37 to S-39 and ultrasonicly inspect for cracks in the fuselage skin orignating at the indicated fastener holes beneath the forward drag splice fitting flanges in accordance with the service bulletin. If any cracks are found, repair in accordance with the service bulletin before further flight.

C. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. For purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's time in service by the operator's fleet average from takeoff to landing for the airplane type.

E. Aircarft may be ferried to a base for maintenance in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

F. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of an operator, if the request contains substantiating data to justify the adjustment period.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) involves a proposed regulation which is not major under Executive Order 12291; and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, would not have a

significant economic impact on a substantial number of small entities, since no small entities operate Model 747 airplanes. A regulatory evaluation had been prepared and has been placed in the public docket.

Issued in Seattle, Washington on March 22, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-8644 Filed 3-30-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 84-NM-11-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) applicable to certain Boeing Model 747 series airplanes, which would require inspection of the body station 1241 bulkhead splice strap and forging for cracks. Numerous cracks have been reported. An undetected crack may result in cracking of the station 1241 bulkhead frame forging, which could result in loss of cabin pressure.

DATES: Comments must be received on or before May 21, 1984.

ADDRESSES: Send comments on this proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-11-AD, 17900 Pacific Highway South, C-86966, Seattle, Washington 98168.

The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. O. E. Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2923. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date of comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-11-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Boeing Company has conducted a structural reassessment of the Boeing Model 747 airplane as part of their program to develop a Supplemental Structural Inspection Document (SSID) for the airplane. In conducting this reassessment, Boeing used advanced analysis techniques which were not available during the original design and certification of the Model 747 and used as guidelines the requirements of Federal Aviation Regulation (FAR) 25.571, Amendment 25-45. The measurement included structural details that have a history of cracking. The analysis has revealed that certain of these details should receive increased emphasis in the maintenance program of operators to maintain the structural integrity of the airplane. The body station 1241 bulkhead splice strap is one such detail.

Thirty-three incidents of cracking have been reported. The cracks were caused by cyclic loading and corrosion.

Undetected cracks in the station 1241 bulkhead frame forging could result in sudden in-flight depressurization of the airplane and the inability to withstand fail-safe loads.

Boeing has issued Service Bulletin 747-53-2219, Revision 1, which describes the specific procedures to be used to inspect for cracks in the body station 1241 bulkhead splice strap on certain Model 747 airplanes. A modification is described in the service bulletin which consists of replacing the lower portion of the bulkhead splice strap with a wider strap of different material. Repetitive inspections are required after modification.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspection and, if necessary, repair or modification of the body station 1241 bulkhead splice strap on certain Model 747 series airplanes.

It is estimated that 142 airplanes of U.S. operators would be affected by this AD, that it would take approximately 800 manhours per airplane to accomplish the required actions, and that the average labor cost would be $35 per manhour. Repair parts are estimated at $8000 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $5,112,000. For these reasons the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-53-2219, Revision 1, dated October 13, 1983, or later FAA approved revisions. To prevent failure of the body station (B.S.) 1241 bulkhead splice strap, accomplish the following:

A. For airplanes that have not been modified in accordance with Service Bulletin 747-53-2219, Revision 1, or later FAA approved revisions:

(1) Perform an eddy current inspection for cracks in the B.S. 1241 bulkhead frame splice strap and other structure common to the aft hole in accordance with the Service Bulletin instructions within the next 1000 landings (1500 landings for 747-100SR) after the effective date of this AD or prior to the accumulation of 10,000 landings (13,000 landings for 747-100SR) whichever occurs later.

(2) If no cracks are found at the aft large bolt hole common to the longeron fitting identified in the Service Bulletin, eddy current inspect thereafter at intervals not to exceed 7000 landings (10,500 landings for 747-100SR).

(3) If a crack is found in the bulkhead splice strap at the aft hole, perform an eddy current inspection for cracks in the bulkhead frame splice strap and frame forging and other structure common to the adjacent

forward hole in accordance with the Service Bulletin instructions.

(4) If no cracks are found in the forward hole, or if cracks are found only in the bulkhead splice strap at the aft hole, reinspect with an eddy current procedure the bulkhead splice strap and frame forging for cracks at the forward hole at intervals not to exceed 3000 landings (4500 landings for 747–100SR).

(5) If cracks are found at the forward hole in the bulkhead frame forging, repair in accordance with Service Bulletin 747–53–2219, Revision 1, or later FAA approved revisions, prior to next flight.

B. For airplanes that have been modified in accordance with Service Bulletin 747–53–2219, Revision 1, or later FAA approved revisions; within the next 1000 landings (1500 landings for 747–100SR) after the effective date of this AD or prior to the accumulation of 10,000 landings (13,000 landings for 747–100SR) after the modification, whichever occurs later, and thereafter at intervals not to exceed 10,000 landings (15,000 landings for 747–100SR), perform the following inspections in accordance with Service Bulletin 747–53–2219, Revision 1, or later FAA approved revisions:

(1) Perform an ultrasonic inspection for bulkhead frame forging corner cracks at forward fastener hole.

(2) Perform an ultrasonic inspection for bulkhead splice strap edge crack extending throught the aft hole.

(3) Perform a close visual inspection for fastener hole cracks in the external splice plate and the forward and aft internal splice straps.

If cracks are found, repair in accordance with FAA approved procedure prior to further flight.

C. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. For purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's time in service by the operator's fleet average from takeoff to landing for the airplane type.

E. Aircraft may be ferried to a base for maintenance in accordance with Section 21.197 and 21.199 of the Federal Aviation Regulations.

F. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of an operator, if the request contains substantiating data to justify the adjustment period.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document involves a proposed regulation which: (1) Is not major under Executive Order 12291; and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); an it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities, since no small entities operate Boeing Model 747 airplanes. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on March 22, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84–8646 Filed 3–30–84; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 84-NM-20-AD]

Airworthiness Directives; Lockheed-California Company Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require modification of the "C" hydraulic system in Lockheed Model L–1011–385 series airplanes to minimize the probability of loss of three hydraulic systems during takeoff. This action is prompted by a recent incident wherein three of the four hydraulic systems in one airplane were lost when multiple main landing gear tire failures were experienced during the takeoff run. The loss of three hydraulic systems would significantly reduce the capability of the flight control system.

DATE: Comments must be received no later than May 21, 1984.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin Tiangsing, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or argumants as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "Availability of NPRMS." All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–NM–20–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

One incident has been reported where an L–1011 had two main landing gear tires fail due to foreign object damage as the airplane approached V_1 speed during the takeoff run. Fragments of the failed tires ruptured the "A" and "B" system hydraulic lines and the truck leveler and downlock lines of the "C" system. The takeoff was successfully aborted, although the "B" and "C" system hydraulic brake accumulators were depleted during the stop. Additionally, the "C" system steering was lost shortly after the aircraft had taxied off the runway.

Therefore, in consideration of the hazardous consequence of multiple hydraulic system failures, the proposed AD is considered to be necessary.

Cost Estimate

The estimated costs associated with this proposed AD are as follows: 70 domestic airplanes would be affected requiring approximately 37.6 manhours per airplane to accomplish the required actions at an average labor cost of $35 per manhour. The kit costs are approximately $3,542 per airplane. Based on these figures, the total cost impact of this AD on the U.S. fleet is

estimated to be $340,060. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 30.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L–1011–385 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent the loss of flight control capability due to loss of hydraulic fluid through the landing gear truck leveler, the downlock supply, or "C" system return line failures, accomplish the following:

A. Within 180 calendar days after the effective date of this AD, modify the "C" hydraulic system by installing a hydraulic fuse and associated hydraulic tubing and replace aluminum return lines with steel lines in accordance with Lockheed L–1011 Service Bulletins No. 093–29–065, Revision 4, dated August 9, 1983, and 093–29–085, dated December 8, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291; and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model L–1011 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on March 22, 1984.

Charles R. Foster,

Director Northwest Mountain Region.

[FR Doc. 84–8647 Filed 3–30–84; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–2556–3]

Proposed Revisions to the National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency.

ACTION: Public hearing announcement.

SUMMARY: On March 20, 1984, EPA proposed revisions to the national ambient air quality standards for particulate matter (49 FR 10408). In accordance with Section 307(d)(5) of the Clean Air Act, today's notice is to announce a public hearing to be held in Washington, D.C. for the purpose of receiving public comment on the proposed revisions to the standards and on related notices that set out proposed revisions to EPA's regulations concerning ambient air monitoring reference and equivalent methods (49 FR 10454) and ambient air quality surveillance (49 FR 10435).

DATE: The hearing will be on April 30, 1984 beginning at 9:30 a.m.

ADDRESS: The hearing will be held at the Environmental Protection Agency, 401 M Street, S.W., Room 3906, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Haines, Strategies and Air Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Drop 12, Research Triangle Park, N.C. 27711. Telephone (919) 541–5531 (FTS: 629–5531).

SUPPLEMENTARY INFORMATION: Individuals planning to make oral presentations at the hearing should notify John H. Haines, at the above address, at least seven days prior to the date of the hearing. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during or within 30 days after the hearing. Written statements (duplicate copies preferred) should be addressed to: Central Docket Section (LE–131), Environmental Protection Agency, Attn: Docket No. A–82–37, 401 M Street, S.W., Washington, D.C. 20460.

A verbatim transcript of the hearing and written statements will be available for copying during normal working hours at the Central Docket Section, Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C.

List of Subjects in 40 CFR Part 50

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

Dated: March 26, 1984.

Joseph A. Cannon,

Assistant Administrator for Air and Radiation.

[FR Doc. 84–8689 Filed 3–30–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[AH–FRL 2551–1]

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators

Correction

In FR Doc. 84–7877 appearing on page 10950 in the issue of Friday, March 23, 1984, make the following corrections.

1. In the Dates paragraph "(30 days from the date for today's notice)" should have read "April 23, 1984".

2. The signing official's name at the end of the document should have read "Joseph A. Cannon".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 49, No. 64
Monday, April 2, 1984

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Development of Extra Long Staple Cotton Multi-Peril Crop Insurance

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Crop Insurance Corporation (FCIC), USDA has accepted a proposal developed by private multi-peril crop insurers through the Crop Hail insurance Actuarial Association, to provide insurance for producers in five (5) Arizona Counties approved by FCIC for extra long staple (Pima) cotton crop insurance, using only FCIC approved rates and forms for this purpose, beginning with the 1984 crop year. Insurers wishing to write this business may be reinsured under FCIC's Reinsurance Agreements. Extra long staple (Pima) cotton producers wishing to contact participating insurance companies or to have cotton yields certified, should contact their county ASCS Office. Would be insurers wishing further information may contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Alan S. Walter, Chief, Reinsurance Branch, Federal Crop Insurance Corporation, P.O. Box 293, Kansas City, MO 64141, telephone (816) 926-7939.

The Arizona Counties where this insurance will be available are:

Graham
Maricopa
Pima
Pinal
La Paz

Done in Washington, D.C. on March 22, 1984.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: March 23, 1984.

Approved by:

Merritt W. Sprague,
Manager.

[FR Doc. 84-8700 Filed 3-30-84; 8:45 am]
BILLING CODE 3410-08-M

Federal Grain Inspection Service

Designation Renewal of Chattanooga Grain Inspection Company, Inc. (TN), and Enid Grain Inspection Company, Inc. (OK)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Chattanooga Grain Inspection Company, Inc., and Enid Grain Inspection Company, Inc., as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: May 1, 1984.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Department Regulation 1512-1; therefore, the Executive Order and Department Regulation do not apply to this action.

The October 28, 1983, issue of the **Federal Register** (48 FR 49896) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Chattanooga's and Enid's designations terminate on April 30, 1984, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by November 28, 1983.

Chattanooga and Enid were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on same in the January 3, 1984, issue of the **Federal Register** (49 FR 128). Comments were to be postmarked by February 17, 1984.

No comments were received regarding the designation renewal of Chattanooga and Enid.

FGIS has evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), has determined that Chattanooga and Enid are able to provide official services in the respective geographic areas for which their designations are being renewed. Each assigned area is the entire geographic area, as previously described in the October 28 **Federal Register** issue.

Effective May 1, 1984, and terminating April 30, 1987, the responsibility for providing official inspection services in their respective specified geographic areas are assigned to Chattanooga and Enid.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection services and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agencies at the following address:

Chattanooga Grain Inspection Company, Inc., Judd Road, P.O. Box 5113, Chattanooga, TN 37406

Enid Grain Inspection Company, Inc., 2305 N. 10th Street, P.O. Box 229, Enid, OK 73701

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: March 23, 1984.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 84-8402 Filed 3-30-84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Areas Currently Assigned to Georgia Department of Agriculture (GA) and Schneider Inspection Service, Inc. (IN)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to Georgia Department of Agriculture and Schneider Inspection Service, Inc.

DATE: Comments to be postmarked on or before May 17, 1984.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Department Regulation 1512-1; therefore, the Executive Order and Department Regulation do not apply to this action.

The February 1, 1984, issue of the Federal Register (49 FR 4019) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by March 2, 1984.

Georgia Department of Agriculture and Schneider Inspection Service, Inc., the only applicants for each respective designation, requested designation for the entire geographic area currently assigned to each of those agencies.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked not later than May 17, 1984.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the Federal Register, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: March 23, 1984.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 84-8403 Filed 3-30-84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Perform Official Services in the Geographic Areas Currently Assigned to Oregon Department of Agriculture (OR) and Southern Illinois Grain Inspection Service, Inc. (IL)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are Oregon Department of Agriculture and Southern Illinois Grain Inspection Service, Inc.

DATE: Applications to be postmarked on or before May 2, 1984.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Department Regulation 1512-1; therefore, the Executive Order and Department Regulation do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area. Oregon Department of Agriculture (Oregon), Agriculture Building, Salem, OR 97310, was designated under the Act as an official agency for the performance of inspection functions on November 5, 1978. Southern Illinois Grain Inspection Service, Inc. (Southern Illinois), 5900 North Illinois Street, P.O. Box 3099, Fairview Heights, IL 62208, was designated under the Act as an official agency for the performance of inspection functions on August 10, 1981.

The agencies' designations will terminate on September 30, 1984. This date reflects administrative extensions of official agency designations, as discussed in the July 16, 1979, issue of the Federal Register (44 FR 41275). Section 7(g)(1) of the Act states generally that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Oregon, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the entire State of Oregon, except those export port locations within the State.

The geographic area presently assigned to Southern Illinois, in the State of Illinois, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the following:

Bounded on the North along a straight line from the junction of State Route 111 and the northern Macoupin County line southeast to the junction of Interstate 55 and State Route 16; State Route 16 east-

northeast to a point approximately 1 mile northeast of Irving; a straight line from this point to the northern Fayette County line; the northern Fayette, Effingham, and Cumberland County lines; the northern and eastern Jasper County lines south to State Route 33; State Route 33 east-southeast to U.S. Route 50; U.S. Route 50 east to the eastern Lawrence County line;

Bounded on the East by the eastern Lawrence, Wabash, Edwards, White, and Gallatin County lines;

Bounded on the South by the southern Gallatin, Saline, and Williamson County lines; the southern Jackson County line west to U.S. Route 51; U.S. Route 51 north to State Route 13; State Route 13 northwest to State Route 149; State Route 149 west to State Route 3; State Route 3 northwest to State Route 51; State Route 51 south to the Mississippi River; and

Bounded on the West by the Mississippi River north to Interstate 270; Interstate 270 east to Interstate 70; Interstate 70 east to State Route 4; State Route 4 north to Macoupin County; the southern and eastern Macoupin County lines.

The following location, outside of the foregoing contiguous geographic area, is presently assigned to Southern Illinois and is part of this geographic area assignment: Sigel Elevator Company, Inc., Sigel, Shelby County.

An exception to the described geographic area is the following location situated inside Southern Illinois' area which has been and will continue to be serviced by Springfield Grain Inspection Department: OK Grain Company, Litchfield, Montgomery County.

Interested parties, including Oregon and Southern Illinois, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of Section 7(f) of the Act and section 800.196(b) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning October 1, 1984, and ending September 30, 1987. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: March 23, 1984.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 84–8404 Filed 3–30–84; 8:45 am]

BILLING CODE 3410-EN-M

Rural Electrification Administration

Intent To Conduct Public Meetings and Prepare an Environment Assessment; Georgia

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Notice of intent to conduct public meetings and prepare an environmental assessment (EA).

SUMMARY: REA intends to conduct public meetings and prepare an Environmental Assessment in connection with possible REA financing assistance to Oglethorpe Power Corporation (Oglethorpe), 2100 East Exchange Place, Tucker, Georgia 30085. The public meetings and EA will consider the environmental aspects of a proposed transmission line project between Woodstock and Alpharetta, with the preferred and alternate corridors located in Fulton, Cobb and Cherokee Counties. REA will conduct public meetings as follows:

Dates: May 1, 1984 and May 2, 1984.
Location: Milton High School, School Street, Alpharetta, Ga.
6:30 p.m. Registration to present verbal comments.
7:00 p.m. Public meeting.

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the public meetings, in order for the comments to be considered in the preparation of the EA. Comments should be sent to Mr. James A. Ruspi, Chief, Distribution and Transmission Engineering Branch, Southeast Area—Electric, Room 0262, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. James Ruspi, at the above address, (202) 382–8436, or Mr. F. F. Stacy, Jr., Oglethorpe Power Corporation, 2100 East Exchange Place, Tucker, Georgia (404) 496–7600.

SUPPLEMENTARY INFORMATION: REA intends to hold public meetings and prepare an EA in connection with possible financing assistance to Oglethorpe for a transmission line from Woodstock to Alpharetta, Georgia. The proposes 230 kV transmission line would be approximately 14 miles long. Such a project is of the type for which REA normally prepares an EA. REA does not normally hold public meetings for proposed projects of this category, however, REA has become aware of public interest in the siting of the line and has decided that meetings should be held on the proposed Woodstock to Alpharetta line.

Oglethorpe has prepared a Borrower's Environmental Report which provides information on the environmental aspects of the proposed route, the route alternatives, and possible environmental effects. Copies of the BER are available for public review and comment at:

Woodstock Public Library, 15 North Main Street, Woodstock, Georgia 30188
Cobb County Public Library, 30 Atlanta Street, Marietta, Georgia 30060
Alpharetta Public Library, 15 Academy Street, Alpharetta, Georgia 30201

Also, a limited supply of BER's are available from Oglethorpe and REA at the addresses given above.

Based upon information in the BER and comments at the public meetings, as well as other comments and information, REA will prepare an EA on the proposed project. Alternatives to be considered by REA include, among other options:

(1) No action; (2) load management and energy conservation; and (3) alternative transmission line routes. After the EA has been prepared, a decision will be made on whether REA should prepare a Finding of No Significant Impact or an Environmental Impact Statement. Notice of this decision will be published in the Federal Register.

The public meetings, to be conducted by a representative of REA, will be held to solict public input and comments concerning, but not limited to, the nature of the proposed project, possible routes and alternatives, and any significant environmental issues and concerns that should be addressed in the EA. If numerous people wish to comment at these meetings, commenters may be asked to keep their comments brief so that everyone can be give an opportunity to speak. Potential commenters should consider this when preparing their statements. Written comments can be submitted at the meetings, or mailed to REA at the address given above.

REA's financing assistance to Oglethorpe will be subject to and is contingent upon reaching satisfactory conclusions with respet to the environmental effects of the proposed project. Final action will be taken only after the National Environmental Policy Act requirements have been met.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: March 28, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84-8709 Filed 3-30-84; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Withdrawal of preliminary finding of need to accredit laboratories that test portable fire extinguishers.

SUMMARY: In a notice published in the Federal Register on October 5, 1983 (48 FR 45453–45455) the National Bureau of Standards (NBS) requested public comments on its preliminary finding that there is a need to accredit laboratories that test portable fire extinguishers. The comments received included two requests for an informal public hearing on the preliminary finding of need. In a notice published in the Federal Register on November 8, 1983 (48 FR 51353–51354) NBS announced a public hearing to be held on November 29, 1983. The majority of the testimony presented and the written comments received objected to the establishment of a laboratory accreditation program (LAP) which has led NBS to the conclusion that the preliminary finding of need should be withdrawn. Accordingly, NBS hereby announces the withdrawal of the Preliminary Finding of Need to Accredit Laboratories that Test Portable Fire Extinguishers.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, D.C. 20234, (303) 921–3431.

SUPPLEMENTARY INFORMATION:

Background: On October 5, 1983, the National Bureau of Standards published in the Federal Register (48 FR 45453–45455) for public comment a request from Dennis R. Dewar, Director, Division of the State Fire Marshal, Tallahassee, Florida, under the provisions of 15 CFR Part 7a, to establish a Laboratory Accreditation Program (LAP) for laboratories that test portable fire extinguishers and invited public comments over a 60-day period. That notice also established a 15-day period, to request an informal public hearing. Two requests for a hearing were received, one a letter dated October 14, 1983, from John H. Addington of the Fire Equipment Manufacturers' Association, Inc., the other a letter dated October 17, 1983, from Mr. G. T. Castino of Underwriters Laboratories, Inc. (UL). A total of five written statements were filed in response to the preliminary finding of need. The written statements and a copy of the oral testimony presented at the hearing are available for inspection and copying at the Department of Commerce (DOC) Central Reference and Records Inspection Facility (CRRIF), Room 6628, Herbert C. Hoover Building (HCHB), 14th Street between E Street and Constitution Avenue, N.W., Washington, D.C. 20234.

These written comments and the testimony given at the hearing have been analyzed and considered. The result of this analysis is a document entitled, "Summary and Analysis of Comments on the Preliminary Finding of Need to Accredit Laboratories that test Portable Fire Extinguishers". That document, which lists the members of the public who provided written comments, is also available for inspection and copying at CRRIF mentioned above.

Summary of Comments. Four respondents objected to the establishment of the LAP.

Only one respondent favored the establishment of a LAP for portable fire extinguishers indicating that in his view fire marshals, purchasing authorities, manufacturers and testing laboratories, as well as the general public, would benefit from having more listing and labeling services available for portable fire extinguishers.

One respondent objected to the use of the UL standards claiming that they are not "nationally accepted standards," but the property of UL which are not arrived at through input of all interested parties. He indicated that he would be pleased to reconsider his position on the proposed LAP when national standards are referenced.

Another respondent stated that there is a lack of a demonstrated need for a LAP, that a LAP cannot be practically and effectively implemented for these products, and that a LAP could be counterproductive from a safety standpoint.

Another respondent objected to the establishment of a LAP to accredit laboratories that merely test but do not certify the safety of portable fire extinguishers.

Another respondent acknowledged the need for a set of standards that are nationally acceptable, but felt that the interest and needs of the requestor of the LAP would be best met by relying on ANSI to adopt UL standards which would negate the need for a LAP.

Further details and analysis of the responses are summarized in the above referenced summary and analysis document.

The respondent who favored the LAP did not provide supporting testimony as to the benefit from or need for the LAP.

Conclusion. Based upon the comments and analysis set out above, NBS hereby announces the withdrawal of the preliminary finding of need to accredit laboratories that test portable fire extinguishers.

Dated: March 27, 1984.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 84-8672 Filed 3-30-84; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fishery Management Council will meet in Anchorage, AK, on April 25–26, 1984, to discuss its policies and operating procedures. The meeting will begin at 8:30 a.m., each day, in the Old Federal Building, 605 W. 4th Avenue, and may extend, if necessary, into Friday, April 27.

The Council will also meet in closed session at 1:30 p.m., on April 25, to discuss personnel matters. Other than the closed session, the meeting is open to the public. The Council's Advisory Panel and Scientific and Statistical Committee will *not* meet in April. An agenda will be available to the public around April 12.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274–4563.

Dated: March 19, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-8726 Filed 3-30-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Limits for Certain Cotton and Man-Made Fiber Textile Products From the Federative Republic of Brazil, Effective April 1, 1984

March 28, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 2, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377–4212.

Background

The Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, as amended, between the Governments of the United States and the Federative Republic of Brazil establishes an aggregate and group limits and within those limits specific limits for Categories 300/301, 313, 317, 319, 338/339, 347/348, 350, 361, 363, 369pt. and 604, among others, during the agreement year which begins on April 1, 1984. It also provides consultation levels for certain other categories, such as Categories 314, 320, and 614, which are not subject to specific limits and which may be adjusted during the agreement year. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 300/301, 313, 314, 317, 319, 320, 338/339, 347/348, 350, 361, 363, 369pt, 604, and 614, produced or manufactured in Brazil and exported during the twelve-month period which begins on April 1, 1984 and extends through March 31, 1985, in excess of the designated levels of restraint.

The limit for Category 300/301 has been adjusted to deduct carryforward used during the previous agreement year which began on April 1, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

This letter and the action taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 2, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 300/301, 313, 314, 317, 319, 320, 338/339, 347/348, 350, 361, 363, 369 pt.[1], 604, and 614, produced or manufactured in Brazil and exported during the twelve-month period beginning on April 1, 1984 and extending through March 31, 1985, in excess of the following levels:

Category	12-mo. level
300/301	7,465,218 lbs.
313	28,050,080 sq. yds.
314	1,500,000 sq. yds.
317	10,418,590 sq. yds.
319	8,014,300 sq. yds.
320	4,000,000 sq. yds.
338/339	416,111 doz.
347/348	300,562 doz.
350	48,255 doz.
361	290,323 nos.
363	11,556,000 nos.
369 pt.[1]	1,356,955 lbs.
604	354,931 lbs.
614	3,000,000 sq. yds.

[1] In category 369, all T.S.U.S.A. numbers except 360.2000, 360.2500, 360.3000, 360.7600, 360.8100, 361.0515, 361.1820 361.5000, 361.5420, and 361.5630.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Brazil, which have been exported to the United States on and after April 1, 1983, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period which began on April 1, 1983 and extends through March 31, 1984. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of March 31, 1982 between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that: (1) within the aggregate and group limits, specific limits may be exceeded by designated percentages; (2) specific ceilings may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton and man-made fiber textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-8707 Filed 3-30-84; 8:45 am]

BILLING CODE 3510-DR-M

Announcing New Tariff Schedule Numbers To Provide for the Proper Category Placement of Parts of Certain Garments

March 28, 1984.

On March 20, 1984 (49 FR 10325) the Chairman of the Committee for the Implementation of Textile Agreements (CITA) announced the creation of new Tariff Schedule of the United States, Annotated, (T.S.U.S.A.) numbers to provide for the proper category placement of parts of certain garments. These T.S.U.S.A. numbers will appear in the April 1, 1984 supplement to the T.S.U.S.A. In the letter published below the Chairman for the Committee for the Implementation of Textile Agreements directs the Commissioner to Customs to begin implementation of the new Tariff Schedule numbers for parts of certain garments for goods imported for consumption, withdrawn from warehouse for consumption, or entered into warehouse on or after July 1, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on

December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584). A description of the new T.S.U.S.A. numbers and the categories to which thay are assigned also follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

March 28, 1984

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the United States' 28 bilateral textile and apparel agreements, I request that you begin implementation of the Tariff Schedule of the United States, Annotated (T.S.U.S.A.) numbers listed below for parts of certain garments for imports entered for consumption, withdrawn from warehouse for consumption, or entered into warehouse on or after July 1, 1984. These T.S.U.S.A. numbers will appear in the April 1, 1984 supplement to the Tariff Schedules.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

T.S.U.S.A.	Description	Textile category
	Cotton, Men's and Boy's, Ornamented	
379.0420	Parts of sweaters, knit	345
379.0425	Parts of shirts, knit	338
379.0430	Other parts of garments, knit	359
379.0842	Parts of shirts, not knit	340
379.0846	Parts of trousers, slacks and shorts, not knit	347
379.0850	Parts of other garments, knit	359
	Wool, Men's and Boys', Ornamented	
379.1535	Parts of sweaters, knit	445
379.1540	Parts of other garments, knit	459
379.2015	Parts of trousers, slacks and shorts, not knit	447
379.2025	Parts of other garments, not knit	459
	Man-Made Fibers Men's and Boys', Ornamentsd	
379.2850	Parts of sweaters, knit	645
379.2855	Parts of shirts, knit	638
379.2860	Parts of other garments, not knit	659
379.3333	Parts of shirts, not knit	640
379.3335	Parts of trousers, slacks and shorts, not knit	647
379.3337	Parts of other garments, not knit	659
	Cotton, Men's and Boys', Not Ornamented	
379.4135	Parts of sweaters, knit	345
379.4137	Parts of shirts, knit	338
379.4139	Parts of other garments, knit	359
379.6441	Parts of shirts, not knit	340
379.6443	Parts of trousers, slacks and shorts, not knit	347
379.6444	Parts of other garments, not knit	359
	Wool, Men's and Boys' Not Ornamented	
379.7642	Parts of sweaters, knit	445
379.7644	Parts of other garments, knit	459
379.8414	Parts of trousers, slacks, and shorts, not knit	447
379.8418	Parts of other garments, not knit	459
	Man-Made Fibers, Men's and Boys', Not Ornamented	
379.9225	Parts of shirts, knit	638
379.9230	Parts of sweaters, knit	645
379.9235	Parts of other garments, knit	659
379.9644	Parts of shirts, not knit	640
379.9646	Parts of trousers, slacks, and shorts, not knit	647
379.9647	Parts of other garments, not knit	659
	Cotton, Women's, Girls', Infants', Ornamented	
383.0352	Parts of sweaters, knit	345
383.0353	Parts of shirts, knit	339
383.0354	Parts of other garments, knit	359
383.0865	Parts of trousers, slacks and shorts, not knit	348
383.0868	Parts of blouses, not knit	341
383.0871	Parts of other garments, not knit	359
	Wool, Women's Girls', Infants', Ornamented	
383.1327	Parts of sweaters, knit	446
383.1329	Parts of other garments, knit	459
	Man-Made Fibers, Women's, Girls', Infants', Ornamented	
383.2044	Parts of sweaters, knit	646
383.2046	Parts of shirts, knit	639
383.2048	Parts of other garments, knit	659
383.2367	Parts of trousers, slacks, and shorts, not knit	648
383.2370	Parts of blouses, not knit	641
383.2373	Parts of other garments, not knit	659
	Cotton, Women's, Girls', Infants', Not Ornamented	
383.3061	Parts of sweaters, knit	345
383.3062	Parts of shirts, knit	339
383.3063	Parts of other garments, knit	359
383.5076	Parts of trousers, slacks, and shorts, not knit	348
383.5077	Parts of blouses, not knit	341
383.5079	Parts of other garments, not knit	359
	Wool, Women's, Gilrs', Infants', Not Ornamented	
383.5833	Parts of sweaters, under $5, knit	446
383.5836	Parts of other garments, under $5, knit	459
383.6387	Parts of sweaters, over $5, knit	446
383.6389	Parts of other garments, over $5, knit	459
	Man-Made, Women's, Girls', Infants', Not Ornamented	
383.8662	Parts of sweaters, knit	646
383.8664	Parts of shirts, knit	639
383.8666	Parts of other garments, knit	659
383.9262	Parts of trousers, slacks, and shorts, not knit	648
383.9263	Parts of blouses, not knit	641
383.9264	Parts of other garments, not knit	659

[FR Doc. 84-8708 Filed 3-30-84; 8:45 am]

BILLING CODE 3510-DR-M

Establishing Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Exported From Indonesia

March 28, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 3, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377-4212.

Background

On March 7, 1984 a notice was published in the **Federal Register** (49 FR 8472) which established import restraint limits for cotton gloves and mittens in Category 331, women's, girls' and infants' woven blouses in Category 341, and other yarn, wholly on non-continuous filament in Catetory 604, produced or manufactured in Indonesia and exported during the ninety-day periods which began on December 29, 1983 and extends through March 27, 1984 in the case of Categories 331 and 604 and December 30, 1983 through March 28, 1984 in the case of category 341, pursuant to a newly agreed consultation provision under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended. The notice also stated the Government of the Republic of Indonesia is obligated under the bilateral agreement, if no mutually satisfactory solution is reached on a level for these categories during consultations, to limit its exports during the periods which began on December 29 and 30, 1983 and extend through June 30, 1984 to following limits:

Category	Prorated limit	Restraint period
331	148,837 doz.	Dec. 29, 1983-June 30, 1984.
341	141,281 doz.	Dec. 30, 1983-June 30, 1984.
604	286,492 lbs.	Dec. 29, 1983-June 30, 1984.

The notice also stated that merchandise in the indicated categories which is in excess of the ninety-day limits, if it is allowed to enter, may be charged to the prorated limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 14, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

March 28, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended, between the Governments of the United States and the Republic of Indonesia and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 3, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products

in Categories 331, 341 and 604, produced or manufactured in Indonesia and exported during the indicated periods, in excess of the following restraint limits:

Category	Prorated limit [1]	Restraint period
331	148,837 doz.	Dec. 29, 1983–June 30, 1984.
341	141,281 doz.	Dec. 30, 1983–June 30, 1984.
604	286,492 lbs.	Dec. 29, 1983–June 30, 1984.

[1] The limits have not been adjusted to reflect any imports exported after December 29, 1983 (Cat. 341), and after December 28, 1983 (Cats. 331 and 604).

Textile products in Categories 331, 341 and 604 which have been exported to the United States during the ninety-day periods which began on December 29 and 30, 1983 and extended through March 27 and 28, 1984 shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Indonesia and with respect to imports of cotton and man-made fiber textiles and textile products from Indonesia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-8706 Filed 3-30-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Defense Data Network (Defensive Systems Subgroup); Advisory Committee Meeting

The Defensive Systems Subgroup of the Defense Science Board Task Force on Defense Data network will meet in closed session on 24–25 April 1984 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 24–25 April 1984 the Task Force will discuss the application of technology to systems designed to improve future U.S. air defense capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552(b)(1) (1976), and that accordingly this meeting will be closed to the public.

March 28, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-8668 Filed 3-30-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Minnesota Mining and Manufacturing Co.; Intent To Grant Exclusive Patent License

Pursuant to the provisions of Part 101–4 of Title 41, Code of Federal Regulations (47 FR 34148, August 6, 1982), the Department of the Air Force announces its intention to grant to Minnesota Minning and Manufacturing Company of St. Paul, Minnesota, a corporation of the State of Delaware, an exclusive license under United States Patent Number 4,200,875 entitled "Apparatus For, And Method Of, Recording And Viewing Laser-Made Images On High Gain Retroreflective Sheeting" issued April 29, 1980 to Demosthenes G. Galanos.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed in writing to the addressee set forth below within 60 days from the publication of this notice. Also copies of the patent may be obtained for one dollar ($1.00) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Office of The Judge Advocate General, HQ USAF/JACP, 1900 Half Street, S.W., Washington, D.C., 20324, Telephone No. 202–693–5710.

Dated: April 2, 1984.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-8665 Filed 3-30-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

March 21, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Strategic Reconnaissance Technologies will meet at Pentagon, Washington, DC on May 11, 1984.

The purpose of the meeting will be to study the future of strategic reconnaissance technologies. The meetings will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-8664 Filed 3-30-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

March 8, 1984.

The USAF Scientific Advisory Board (SAB) will meet in general session on April 24, 25, and 26, 1984 at the Space Technology Center, Kirtland AFB, New Mexico. The Board will meet in executive session on April 24 from 3:00 p.m. to 6:00 p.m., on April 25 from 8:30 a.m. to 5:00 p.m., and on April 26 from 8:30 a.m. to 4:00 p.m.

The purpose of the meeting will be to receive classified briefings and hold classified discussions on Air Force Space R&D activities and Innovation for Air Power in the 21st Century.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof and will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-8662 Filed 3-30-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

March 22, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on the Feasibility of Air Force Logistics Command's Network

Architecture will meet at the Pentagon, Washington, DC on May 4, 1984.

The purpose of the meeting will be to obtain background information on design and management plans for AFLC Logistics Force Structure Management System. The meeting will be held from 8:00 a.m. to 5:00 p.m.

The meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–8663 Filed 3–30–84; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Naval Research Advisory Committee; Panel on Reduced Observables; Cancellation of Meeting

This notice is given to advise of the cancellation of the meeting of the Naval Research Advisory Committee Panel on Reduced Observables on April 3–4, 1984, as published in the issue of March 19, 1984 (49 FR 10144).

Dated: March 29, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 84–8805 Filed 3–30–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Advisory Board; Light Water Reactor R&D Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor R&D Panel of the Energy Research Advisory Board (ERAB)

Date and time: May 1–2, 1984 from 9 a.m. to 5 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 8E–089, Washington, DC 20585

Contact: Charles E. Cathey, U.S. Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252–5444

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

Discuss the first draft of a report on Light Water Reactor R&D

Public Comment (10 minute rule)

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on March 27, 1984.

J. Ronald Young,

Director of Management.

[FR Doc. 84–8680 Filed 3–30–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TA84–1–20–004]

Algonquin Gas Transmission Co.; Rate Reduction Filing Under Rate Schedule S–IS

March 28, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on March 23, 1984 tendered for filing three tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, as follows:

Substitute Third Revised Sheet No. 213
Substitute Fourth Revised Sheet No. 213
Fifth Revised Sheet No. 213.

Algonquin Gas states that Substitute Third Revised Sheet No. 213 and Substitute Fourth Revised Sheet No. 213, proposed to be effective January 1, 1984 and February 1, 1984 respectively, are being filed to include in Algonquin Gas' Rate Schedule S–IS Payment for Inventory Sale Gas a decrease in Consolidated Gas Supply Corporation's ("Consolidated") underlying Rate Schedule E. Fifth Revised Sheet No. 213, proposed to be effective March 1, 1984 is being filed to reflect in Algonquin Gas' Rate Schedule S–IS Payment for Inventory Sale Gas, a subsequent decrease by Consolidated in its Rate Schedule E.

Algonquin Gas requests the Commission accept the above-mentioned tariff sheets to be effective as proposed.

Algonquin Gas also requests that the Commission grant such special permission as may be necessary to allow Algonquin Gas to provide a credit if necessary on the next month's billing subsequent to acceptance by the Commission of the tariff sheets filed hereunder in order to effectuate the result of the proposed effective dates.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–8737 Filed 3–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–20–005]

Algonquin Gas Transmission Co. Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

March 28, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on March 23, 1984 tendered for filing Substitute Fourth Revised Sheet No. 201 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Substitute Fourth Revised Sheet No. 201 is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment as set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Such tariff sheet is being filed to track revised rates filed by its pipeline supplier, Texas Eastern Transmission Corporation, pursuant to Commission's order issued January 31, 1984 in Docket No. TA84–1–17–001.

Algonquin Gas proposes the effective date of Substitute Fourth Revised Sheet No. 201 to be March 1, 1984.

Algonquin Gas request permission to credit the subsequent month's bill following Commission acceptance to

effectuate such rate change as of March 1, 1984, in the event Algonquin Gas does not receive approval in time for the April 7, 1984 billing of March, 1984 sales.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

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 Steet, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8738 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-282-000]

ANR Pipeline Co.; Request Under Blanket Authorization

March 28, 1984.

Take notice that on March 5, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-282-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that ANR proposes to undertake a transportation service for 3M Corporation (3M), an eligible end-user, under authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that the transportation service would be provided pursuant to a transportation agreement (Agreement) between ANR and Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), dated November 7, 1983, as amended January 18, 1984, wherein Northern acts as agent for various end-users, including 3M. ANR is advised that Northern, as agent for 3M, has entered into a gas purchase contract dated August 18, 1983, with Colony Natural Gas Corporation and Reliancy Pipeline Company for the purchase of natural gas. It is explained that to effectuate delivery of the purchased volumes, ANR on January 10, 1984, commenced transportation services on behalf of 3M for an initial automatic period of 120 days and subject to Commission authority, has agreed to provide transportation services through June 30, 1985. It is stated that pursuant to the Agreement ANR would take receipt of up to 7,000 dt equivalent of gas per day which 3M, through its agent, Northern, would cause Oklahoma Natural Gas Company (ONG) to render to ANR at the point of interconnection of the pipeline systems of ANR and ONG in Custer County, Oklahoma, and ANR would transport and deliver equivalent volumes to Northern for 3M's account at an existing point of interconnection of the pipeline systems of Northern and ANR near Greensburg, Kansas. ANR is advised that Northern and Northern States Power Company (NSP) would provide additional transportation for, or on behalf of, 3M.

ANR estimates peak day and average day transportation volumes of 7 and 4.5 billion respectively, and annual volumes of 1,219,500 million Btu. ANR advises that NSP has indicated NSP has sufficient capacity to perform the transportation service without detriment to its other customers. ANR also indicates that no facilities need be constructed to provide the transportation service. ANR also has submitted an affadavit from 3M indicating that the gas would be used at its St. Paul, Minnesota, plant for boiler fuel.

ANR proposes to charge 3M 16.5¢ per dt for all gas transported and delivered to Northern for 3M's account after February 11, 1984, the date ANR's Rate Schedule EUT-1 went into effect.

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 and (18 CFR 385.214) a motion to intervene or notice of intervention 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8739 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-207-000]

Albert D. Klain; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 28, 1984.

On March 9, 1984, Albert E. Klain; (Applicant), of Turtle Lake; North Dakota 58575, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 10 kilowatt wind facility will be located in McLean County, North Dakota.

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.

Lois D. Cashell,

Acting Secretary

[FR Doc. 84-8736 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4945-001]

City of Ukiah, California; Surrender of Preliminary Permit

March 27, 1984.

Take notice that City of Ukiah, California, Permittee for the proposed Eden Creek Hydroelectric Project, has requested that its preliminary permit be terminated. The preliminary permit was issued on March 21, 1983, and would have expired September 30, 1984. The project would have been located on

Eden Creek in Mendocino County, California.

The Permittee filed its request on February 13, 1984, and the surrender of the preliminary permit for Project No. 4945 is deemed accepted as of February 13, 1984, and effective 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8740 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-44-000]

Commercial Pipeline Co., Inc.; PGA Filing

March 28, 1984.

Take notice that on March 22, 1984, Commercial Pipeline Co., Inc. ("Commercial") tendered for filing its 44th Revised Sheet No. 3A, superseding Second Amended 43rd Revised Sheet No. 3A reflecting Purchased Gas Adjustments and effective dates as set forth below.

Sheet No.	Current adjustment	Cummulative adjustment	Surcharge adjustment	Total rate
44th Revised Sheet No. 3A.	(base) $.5139. (excess) .5295.	$.6432 .6589	$.4091 .4091	$5.5092 5.6334

The effective date of Commercial's filing is April 23, 1984.

Commercial states that this filing reflects adjustments in its purchased gas cost to provide for the tracking of a corresponding PGA adjustment by Commercial's role supplier, Northwest Central Pipeline Corporation. The filing also reflects surcharge adjustments in accordance with Commercial's PGA.

Copies of the filings were served on Commercial's FERC jurisdictional customers, the Kansas Corporation Commission and the Missouri Public Service Commission.

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 Steet, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 6, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8741 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA84-4-000]

Connecticut Yankee Atomic Power Co.; Termination of Proceeding

March 28, 1984.

On February 21, 1984, Connecticut Yankee Atomic Power Company filed a letter notifying the Commission that it no longer disagrees with the accounting adjustments required by the Commission's January 19, 1984 letter order. Accordingly, there is no need to initiate further proceedings, pursuant to Part 41 of the Commission's regulations, and this docket is terminated.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8742 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-200-000]

Delta Energy Project—Phase IV; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 28, 1984.

On March 5, 1984, Delta Energy Project—Phase IV (Applicant), of 177 Bovet Road, Suite 520, San Mateo, California 94402, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The windpark facility is designed to provide up to 7.875 megawatts of power and will be located in the Altamont Pass area near Tracy, 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 Capital 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. Protest 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8743 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-325-000]

Enerex; Filing

March 28, 1984.

The filing Company submits the following:

Take notice that on March 19, 1984, Enerex, a partnership, tendered for filing (as the authorized representative of the five public utilities named below) an Interchange Agreement (Agreement) between Iowa Electric Light and Power Company, Iowa-Illinois Gas and Electric Company, Iowa Power and Light Company, Iowa Public Service Company, and Iowa Southern Utilities Company, dated as of January 1, 1984, with schedules using existing and new rates for wholesale energy transactions between the above-named parties and existing rates for wholesale energy transactions between the above-named parties and other utility companies.

Enerex states that the Agreement (and its service schedules) uses existing rates and in certain transactions between the parties uses of new rates. The principal purpose of the Agreement is to facilitate energy transactions between the parties so that they may operate their generating facilities as one control area so as to utilize the lowest cost energy for the group.

Enerex proposes an effective date of March 19, 1984, and therefore requests waiver of the Commission's notice requirements.

According to Enerex copies of this filing have been served upon the five utility companies named above, the Iowa State Commerce Commission, the Illinois Commerce Commission, and the South Dakota Public Utilities Commission.

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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8744 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-226-000]

Iowa-Illinois Gas & Electric Co.; Filing

March 28, 1984.

The filing Company submits the following:

Take notice that on March 19, 1984, Iowa-Illinois Gas and Electric Company (Iowa-Illinois) tendered for filing a Louisa Transmission Operating Agreement (Agreement) between Iowa-Illinois, Iowa Power and Light Company (Iowa Power), Iowa Public Service Company (Public Service), Central Iowa Power Cooperative (Central Iowa), Interstate Power Company (Interstate), City of Tipton, City of Harlan, City of Waverly, dated May 27, 1983.

Iowa-Illinois states that the Agreement provides for the operation by the parties of Louisa Transmission, which has been constructed to transmit each party's respective share of Louisa Generation Station capacity toward its respective load center.

Iowa-Illinois further states the parties, by separate agreements, have provided for the construction of Louisa Generating Station in Louisa County, Iowa and for the construction of the associated 345 kv Louisa Transmission facilities. Iowa-Illinois indicates that, in addition to providing for the operation of Louisa Transmission, the Agreement provides for the determination and establishment of capacity schedules in Louisa Transmission and for assignment of each capacity schedules by a party to another party, or nonparty, including the associated rights, obligations and charges. Iowa-Illinois further indicates that the purpose of the proposed rate for assignment of such capacity schedules is to compensate the assigning parties for the costs of the portion of Louisa Transmission over which the capacity schedule flows.

Iowa-Illinois requests an effective date of October 13, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing has been mailed to each of the other parties to the Agreement, the Iowa State Commerce Commission, the Illinois Commerce Commission, the Minnesota Public Utilities Commission and the South Dakota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8745 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-286-000]

Lone Star Gas Co., a Division of ENSERCH Corp.; Request Under Blanket Authorization

March 28, 1984.

Take notice that on March 8, 1984, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood St., Dallas, Texas 75201, filed in Docket No. CP84-286-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Lone Star proposes to construct and operate an additional delivery point under the authorization issued in Docket Nos. CP83-59-000 and CP83-59-002 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.

Lone Star proposes to add a second meter parallel to an existing meter to permit the sale or natural gas to Republic Gypsum Company (Republic) in Jackson County, Oklahoma. Lone Star states that the additional meter is required because Republic is adding facilities to its plant and requires additional gas. It is stated that deliveries at the two delivery points would total 1,236,000 Mcf per year. It is further stated that the increase of 738,000 Mcf per year over the 498,000 Mcf authorized for the existing delivery points has been authorized for the existing delivery point has been authorized by the Commission. It is asserted that the rate to be charged for the gas would be one approved by the Oklahoma Regulatory Commission.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8746 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-10133-001 et al.]

Mapco Oil & Gas Co.; Application To Amend Certificates of Public Convenience and Necessity and in Any Related Proceedings

March 28, 1984.

Take notice that on January 23, 1984, Mapco Oil & Gas Company (Mapco) of P.O. Box 2115, Tulsa, Oklahoma 74101-2115, filed an application to amend Certificates of Public Convenience and Necessity so as to substitute Mapco Oil & Gas Company for Mapco Production Company in such certificates and in any other related proceedings. Mapco is filing contemporaneously herewith a Certificate of Adoption and Requests for Redesignation of Mapco Production Rate Schedules listed in the attached Appendix.

Effective December 31, 1983, Mapco Production Company was changed to Mapco Oil & Gas Company.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 11, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with th Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to

intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

APPENDIX

Certificate docket No.	Rate schedule No.	Pipeline purchaser
G-10133	1	Colorado Interstate Gas Co.
G-15050	2	Mississippi River Transmission Corp.
G-15052	4	Do.
G-15052	5	Do.
G-16146	6	Northern Natural Gas Co.
G-16146	7	Colorado Interstate Gas Co.
G-16146	8	Do.
G-16146	9	Northern Natural Gas Co.
G-16146	10	Do.
G-6086	11	Do.
G-6086	12	Southwestern Public Service Co.
CI67-337	14	Do.
G-19480	16	Colorado Interstate Gas Co.
G-20148	17	Do.
CI74-302	19	Northern Natural Gas Co.
CI74-646	20	Do.
CI75-30	21	Do.
CI75-151	22	Do.
CI75-243	23	Florida Gas Transmission Co.
CI76-397	24	Colorado Interstate Gas Co.
CI76-577	25	Florida Gas Transmission Co.
CI77-747	26	Do.
CI77-748	27	Do.

[FR Doc. 84-8747 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC84-4-000]

Mississippi River Transmission Corp.; Proposed Tariff Change

March 27, 1984.

Take notice that on March 15, 1984, Mississippi River Transmission Corporation (Mississippi), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. TC84-4-000 the following revised tariff sheets in its FERC Gas Tariff, Second Revised Volume No. 1, to become effective April 15, 1984:

First Revised Sheet No. 79
First Revised Sheet No. 80
First Revised Sheet No. 82
First Revised Sheet No. 83

Mississippi states that this filing reflects changes in the Index of Protected Essential Agricultural Use (Step 19) Entitlements and in the Index of High Priority (Step 11) Entitlements. The proposed tariff sheets would be effective during the period, April 15, 1984, through October 31, 1984, pursuant to paragraph 8.2(a)(i) of Mississippi's curtailment plan, it is explained.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before April 6, 1984, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8748 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4987-002]

Modesto Irrigation District; Surrender of Preliminary Permit

March 27, 1984.

Take notice that Modesto Irrigation District, Permittee for the China and Camp Creeks Power Project, FERC No. 4987, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 4987 was issued on February 18, 1983, and would have expired on August 31, 1984. The project would have been located on China and Camp Creeks, in Humboldt County, California.

Modesto Irrigation District filed its request on January 16, 1984, and the surrender of the preliminary permit for Project No. 4987 is deemed accepted as of January 16, 1984, and effective as of 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8749 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-201-000]

Munson Geothermal Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 28, 1984.

On March 5, 1984, Munson Geothermal Inc. (Applicant), of Suite 1290, 1380 Lawrence Street, Denver, Colorado 80204, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Churchill County, Nevada. The primary energy source will be a geothermal resource. The power production capacity will be no more than 10 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petititon 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8750 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-278-000 and CP84-278-001]

Northern Natural Gas Co.; Division of InterNorth, Inc.; Request Under Blanket Authorization

March 28, 1984.

Take notice that on March 2, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-278-000 a request as amended on March 20, 1984 in Docket No. CP84-278-001 pursuant to § 157.205 of the Commission's Regulations that Northern proposes to perform a transportation service on behalf of 3M Corporation (3M), a low priority end-user of natural gas, under 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 application which is on file with the Commission and open to public inspection.

Northern indicates that it has arranged as agent for 3M to purchase a supply of gas from Colony Natural Gas Corporation and Reliance Pipeline Company.

Northern states that the proposed transportation service would be performed pursuant to the terms of the transportation agreement dated January 3, 1984. It is said that the agreement provides for the transportation of up to 7 billion Btu of natural gas per day on

behalf of 3M for use at its manufacturing plant located in St. Paul, Minnesota.

Northern states that 3M would cause natural gas to be delivered to Northern at the existing interconnection between Northern and Oklahoma Natural Gas Company (ONG) located in Section 32, Township 22N, Range 22W, Woodward County, Oklahoma (Woodward #1) and/or the existing interconnection between Northern and ONG located in Section 24, Township 21N, Range 21N, Woodward County, Oklahoma (Woodward #2) and/or the existing interconnection between Northern and ONG located in Section 4, Township 12N, Range 22W, Roger Mills County, Oklahoma, and/or the existing interconnection between Northern and ANR Pipeline Company located in Section 16, Township 28S, Range 19W, Kiowa County, Kansas. Northen would transport equivalent thermal quantities to Northern States Power Company (NSP), for the account of 3M, at the existing interconnection between Northern and NSP located in Section 15, Township 115N, Range 19W, Dakota County, Minnesota, it is explained.

Northen proposes to provide this transportation service for a term not to extend beyond June 30, 1985, or the termination of the gas purchase agreement between 3M and its natural gas supplier, whichever occurs first.

Northern states that no additional facilities are required to be constructed to facilitate this transportation service.

Northern proposes to charge 3M the following transportation rates:

(a) 37.08 cents per Mcf of gas received at Woodward #1,

(b) 37.55 cents per Mcf of gas received at Woodward #2,

(c) 40.94 cents per Mcf received at the Roger Mills County receipt point,

(d) 30.57 cents per Mcf received at the Kiowa County receipt point,

Northern also indicates it would retain for fuel and unaccounted for gas 3 percent of all Btu's received at Woodward #1 and Woodward #2, 4.75 percent of all Btu's received at the Roger Mills receipt point and 2.5 percent of all Btu's received at the Kiowa County receipt point. Northern states that these rates are derived from its Rate Schedule EUT-1 of its FERC Gas Tariff, Third Revised Volume No. 1, which provides for rates of 4.65 cents per 100 miles of forward haul plus 1 cent per Mcf for general and administrative expenses.

In addition Northern proposes to collect an added incentive charge of up to 5 cents per Mcf of gas transported and which is dreived from Northern's Rate Schedule AIC-1 and also to charge 3M a GRI funding unit of 1.25 cents per Mcf transported.

Northern estimates peak day and average day transportation volumes of 7 and 4.5 billion Btu, respectively, and annual volumes of 1,219,500 million Btu. Northern also states that 3M hs indicated that the gas would be used at its St. Paul, Minnesota, plant for boiler fuel.

Northern also indicates it may need to add or delete gas sources for 3M and/or Northern receipt points and advises that it would comply with certain filing requirements in implementing these changes. It advises that within 30 days following the addition or deletion of any gas suppliers or receipt points, Northern would file the following information:

(1) A copy of the gas purchase contract;

(2) A statement as to whether the supply is attributable to gas under contract to or released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement that the gas is not committed or dedicated within the meaning of NGPA Section 2(18);

(5) The location of the Northern receipt points being added or deleted and the identity of the seller with respect to any deletion;

(6) The information required by Section 157.209(c)(1)(ix) of the Regulations in the event an intermediary participates in the transaction between the seller and 3M;

(7) The identity of any other pipeline involved in the transportation.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8727 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-43-000]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

March 28, 1984.

Take notice that Northwest Central Pipeline Corporation (Northwest Central) on March 23, 1984, tendered for filing Third Revised First Revised Sheet No. 6 and Third Revised Sheet Nos. 7 and 8 to its FERC Gas Tariff, Original Volume No. 1. Northwest Central states that pursuant to the Purchased Gas Adjustment in Article 21 and the Incremental Pricing Provisions in Article 24 of its FERC Gas Tariff, it proposes to decrease its rates effective April 23, 1984, to reflect:

(1) An increase of 0.38¢ per Mcf in the Cumulative Adjustment due to a change in purchase and sales volume relationship from Northwest Central's last PGA adjustment. The Projected Cost of Purchased Gas is still the 272.52¢ per Mcf as projected and targeted for in Northwest Central's last PGA filing;

(2) A decreased Surcharge Adjustment of 3.80¢ per Mcf (to a negative 8.62¢ per Mcf from a negative 4.82¢ per Mcf per last filing) to amortize the Deferred Purchased Gas Cost Account balance and other projected items to maintain levelized jurisdictional rates over an eighteen-month period; and

(3) A 1.09¢ per Mcf rate reduction for Advance Payments subject to approval of the Stipulation and Agreement filed February 14, 1984, in Docket No. RP82-114-000, *et al.*

This filing reflects the continuation of a pattern of gas purchases designed to produce a purchase gas cost level which will permit gas to be sold competitively in Northwest Central's markets.

Northwest Central has made significant efforts to provide competitive rates to the customers. Northwest Central is herein filing a procedure which will basically levelize rates at the April 23, 1984, level for the following eighteen months.

Northwest Central has been provided this opportunity to propose levelized rates in a large part due to the significant credit subaccount balance in Account 191 at the end of February of $(58.8) million.

By utilizing this large credit balance as a starting point, Northwest Central

proposes to add other major amounts which are expected to occur due to unusual circumstances during the eighteen-month period to estimate the fund which Northwest Central anticipates will accumulate in Account 191 over the eighteen-month period.

The Advance Payment Rate Adjustment is subject to approval of the Stipulation and Agreement filed with the Commission February 14, 1984, in Docket No. RP82–114–000, *et al.* This Stipulation and Agreement has not been approved by the Commission as yet. Northwest Central reserves the right to recover any monies refunded by this Advance Payment Rate Adjustment through a future surcharge if this Stipulation and Agreement is not approved by the Commission.

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.

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 April 6, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–8728 Filed 3–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–20–003]

Panhandle Eastern Pipe Line Co.; Proposed Changes In FERC Gas Tariff

March 28, 1984.

Take notice that on March 20, 1984, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing revised tariff sheets to supersede the sheets originally filed in the above-referenced docket as well as the sheets submitted as a compliance filing on January 13, 1984.

Panhandle's filing provides for a revised Additional Incentive Charge Rate Schedule and is to be effective as of the date of the Commission order approving this tariff and will not affect any transportation transactions prior to that date.

Panhandle states that if its settlement in Docket No. RP82–58 has not been approved by the Commission, then the rates provided in Attachment A of their filing shall become effective and, in the alternative, if the Commission accepts their settlement in Docket No. RP82–58, Attachment B of this filing shall provide the effective rates.

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 April 6, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–8729 Filed 3–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6955–001]

Pan-Pacific Hydro, Inc.; Surrender of Exemption

March 27, 1984.

Take notice that Pan-Pacific Hydro, Inc., Exemptee for the proposed Stoney Creek Project No. 6955 has requested that its exemption be terminated. The exemption was issued on May 26, 1983. The project would have been located on Stoney Creek in Trinity County, California.

Pan-Pacific Hydro, Inc. filed its request on March 1, 1984, and the surrender of its exemption for Project No. 6955 is deemed accepted effective 30 days from the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–8730 Filed 3–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket ER84–227–000]

Pennsylvania-New Jersey-Maryland Interconnection; Filing

March 28, 1984.

The filing Company submits the following:

Take notice that on March 19, 1984, the parties to the Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement tendered for filing proposed Schedule 4.01 Revision No. 7 to the original Agreement between them as heretofore amended and supplemented, which is filed with the Commission under the following Rate Schedule designations:

	Rate schedule (FERC No.)
Public Service Electric and Gas Co	23
Philadelphia Electric Co	21
Pennsylvania Power & Light Co	21
Baltimore Gas and Electric Co	9
Jersey Central Power & Light Co	7
Metropolitan Edison Co	7
Pennsylvania Electric Co	24
Potomac Electric Power Co	19
Atlantic City Electric Co	20

The PJM parties state that proposed Schedule 4.01 sets forth the rate for capacity deficiency transactions under the PJM Agreement for the 12-month Planning Period beginning June 1, 1984.

The PJM parties further state that no new facilities will be installed nor will existing facilities be modified in connection with the proposed schdedule. It is requested that the proposed schedule become effective on June 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–8731 Filed 3–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84-255-000]

The River Gas Co.; Application

March 28, 1984.

Take notice that on February 24, 1984, the River Gas Company (Applicant), 324 Fourth Street, Marietta, Ohio 45750, filed in Docket No. CP84-255-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport, sell, and assign natural gas in interstate commerce as if Applicant were an interestate pipeline as defined in Subparts C, D, and E of Part 284 of the Commission's Regulations, as well as § 284.203 thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that 2,360,000 Mcf of natural gas from outside the state of Ohio were received by Applicant during the 12-month period ending December 31, 1983, within or at the state boundary. All of such volumes were exempt from the Commission's jurisdiction under the Natural Gas Act by reason of Applicant's Section 1(c) exemption. A total of 4,043,000 Mcf of gas were received by Applicant's Hinshaw system in Ohio from all sources during the most recent 12-month period ending December 31, 1983, it is stated.

Applicant states that it received a Declaration of Exemption issued by the Commission under Section 1(c) of the Natural Gas Act of January 4, 1955, in Docket No. G-5294.

Applicant asserts that it would comply with the conditions set forth in § 284.222(e) of the Commission's Regulations. It is also stated that Applicant would petition the Commission for rate approval in accordance with § 294.123(b)(2) 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 April 18, 1984, 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 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8732 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI77-428-004]

Southern Union Exploration Co.; Corporate Name Change

March 28, 1984.

Take notice that on February 1, 1984, Southern Union Exploration Company (Southern Union) of 1217 Main Street, Suite 400, Dallas, Texas 75202, filed in Docket No. CI77-428-004, *et al.*, an application to amend certificates of public convenience and necessity to succeed to the interests of Southern Union Exploration Company of Texas (Southern), and to amend the related rate schedules as listed in the attached Appendix to reflect a change of name from Southern Union Exploration Company of Texas to Southern Union Exploration Company.

By Certificate of Merger dated December 22, 1983, Southern was merged into Southern Union. The effective dated was January 1, 1984, whereupon Southern Union took over all of Southern's properties as listed in the attached appendix.

Notice is hereby given that all the certificates and rate schedules as listed in the attached Appendix are hereby redesignated to reflect the corporate name change from Southern Union Exploration Company of Texas to Southern Union Exploration Company effective January 1, 1984.

Lois D. Cashell,

Acting Secretary.

Appendix

EXHIBIT II.—DOCKET NUMBERS OF SOUTHERN UNION EXPLORATION COMPANY OF TEXAS

Docket nos.	Rate schedule Nos.	Purchaser
CI77-428-004	1	Western Gas Interstate.
CI77-489-002	2	El Paso Natural Gas Co.
CI76-578-003	3	Southern Union Co.
CI76-579-003	4	El Paso Natural Gas Co.
CI77-677-002	5	Western Gas Interstate.

[FR Doc. 84-8733 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-74-011]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 27, 1984.

Take notice that on March 21, 1984, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revisions to its FERC Gas Tariff, Original Volume No. 2:

Third Revised Sheet No. 919
Superseding Revised Substitute
Second Revised Sheet No. 919.

Texas Gas states that this sheet identifies the rate for transportation service rendered for General Electric and that a copy of the filing has been sent to them.

An effective date of April 21, 1984 is requested.

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 April 5, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8734 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-30-000]

Tuthill and Barbee, Petition To Reopen Final Well Category Determination for K&G Gas Corporation's Margaret Moore No. 201 Well

March 28, 1984.

On January 3, 1984, under 18 CFR 275.205 (1983), Barbee filed a request [1] with the Federal Energy Regulatory Commission (Commission) to reopen the final determination that the K&G Gas Corporation's Margaret Moore No. 201 Well[2] qualifies as a new onshore production well under section 103 of the Natural Gas Policy Act of 1978 (NGPA).[3]

Tuthill and Barbee's request arises out of the Commission's Final Finding Reversing Well Category Determinations in Docket No. GP83-38-000. That finding reversed, among others, a determination by the Oklahoma Corporation Commission that Tuthill and Barbee's Simpson Walker No. 1-31 Well qualified under NGPA section 103.[4] The Commission found that surface drilling of the Simpson Walker No. 1-31 well did not commence on or after February 19, 1977, as required under NGPA section 103, since the substantial additional drilling had not been performed upon reentry of the well in April, 1978.

Tuthill and Barbee request that the Commission reopen the *K&G* case under § 275.205 of the Commission's regulations because both the Commission and the jurisdictional agency, the State of New York, relied on an untrue statement of material fact in approving the K&G application. Tuthill and barbee claim that K&G's application stated that the surface drilling of the well was begun on or after February 19, 1977. They then argue that based upon the rationale set forth in the *Tuthill and Barbee* case, drilling of the K&G well was really commenced before February 19, 1977, and thus it does not qualify under NGPA section 103. Therefore, Tuthill and Barbee request that the Commission reopen the *K&G* case.

Any person who desires to be heard or to make a protest to the requested reopening should file, within 30 days after this notice is published in **Federal Register**, with the Commission a motion to intervene or protest in accordance with Rules 211 or 214 or the Rules of Practice and Procedure. Such motion to intervene or protest should be filed at 825 North Capitol Street, N.E., Washington, D.C. 20426. All protests filed will be considered but will not make the protestants parties to the proceeding. Any party who wishes to become a party must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-8735 Filed 3-30-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Tuthill and Barbee in the same filing, also requested the Commission to rehear its final finding with respect to the Simpson Walker No. 1-31 Well. The Secretary informed them, by letter dated February 15, 1984, that rehearing does not lie for a final finding under NGPA section 503.

[2] NY-NGPA Request No. 1844, FERC No. JD82-06453.

[3] 15 U.S.C. 3301-3432 (1982).

[4] 25 FERC ¶ 61,350 (1983).

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL 2555]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Water Permits Programs

Title: Uniform Federal Transportation and Utility System Application for Use on Alaskan Conservation System Unit Lands (EPA #0958).

Abstract: Parties seeking to construct or operate transportation or utility projects on Alaskan public lands must submit a consolidated application form to the appropriate Federal agency. EPA uses the information on application (for projects under its jurisdiction) to determine whether or not to issue permits under NPDES, RCRA and UIC programs.

Respondents: Businesses or government agencies seeking to construct or operate transportation or utility projects on Alaskan public lands.

Toxics Programs

Title: Compliance Requirement for the Child Resistant Packaging Act (EPA #0616).

Abstract: The Child Resistant Packaging Act requires child-resistant containers for pesticides to protect against serious illness or injury from accidental ingestion or contact with the product. EPA reviews the information to ensure compliance with this program.

Respondents: Pesticides manufacturers.

* * * * *

Agency PRA Clearance Requests Completed by OMB

EPA 0959—Reporting, Recordkeeping and Planning Requirements for Groundwater Monitoring—was approved March 12, 1984 (OMB #2000-0423).

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, S.W., Washington, D.C. 20460, and

Wayne Leiss, Carlos Tellez or Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503

Dated: March 23, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information, Management Division.

[FR Doc. 84-8691 Filed 3-30-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83-1145; Phase I]

Investigation of Access and Divestiture Related Tariffs

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: In this order, the FCC takes action on tariffs filed by the Bell Operating Companies and independent telephone companies as part of its investigation of regulations and rates for interstate and foreign access to local telephone exhange service facilities. The purpose of this order is to give the carriers directions on revising their tariffs prior to refiling them with the FCC.

FOR FURTHER INFORMATION CONTACT: Dan Grosh, Common Carrier Bureau, Federal Communications Commission, (202) 632–6387.

Memorandum Opinion and Order

In the matter of Investigation of Access and Divestiture Related Tariffs; CC Docket No. 83–1145, Phase I.

Adopted: March 6, 1984.
Released: March 7, 1984.

By the Chief, Common Carrier Bureau:

1. The Commission's *ECA Tariff Order*, Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83–1145, Phase I, FCC 84–51 (released February 17, 1984), discussed in detail the National Exchange Carrier Association (ECA) access and special construction tariffs. It said in that order that the Common Carrier Bureau would act on delegated authority to adopt an order addressing changes needed in other, non–ECA access tariffs. This order addresses these 74 Bell Operating Company (BOC) and independent telephone company tariffs.

2. Like the *ECA Tariff Order*, this order contains an appendix which includes a section-by-section review of each non-ECA access tariff (Appendix B).[1] We have attempted to review all sections of these tariffs, but have not listed all necessary changes. In most instances, these non-ECA access tariffs mirror the ECA tariff. As the Commission stated in the *ECA Tariff Order*, para. 86, the policy decisions and specific corrections required by that order apply to all access tariff provisions which are the same or relatively similar to the ECA's. In this order, accordingly, we do not generally address these already-decided issues. Our review is limited to tariff provisions which differ from those discussed in the *ECA Tariff Order*. Filing carriers are of course required to implement the directives of the *ECA Tariff Order* as well as the specific corrections listed in Appendix B.

[1] To avoid duplicative review of Central Telephone Company tariffs, we reviewed only those tariffs filed by Central of Florida, Ohio and Texas and Merchants and Farmers Telephone Company. In the case of United Telephone Company, we reviewed only United Arkansas.

3. In general, as was the case with the ECA tariff, the other access tariffs appear to be functional vehicles for implementing access charges, so long as changes necessary to conform to the Commission's recent access charge *Second Reconsideration Order*, CC Docket No. 78–72, Phase I, FCC 84–36, released February 15, 1984 and the *ECA Tariff Order* are made. Many of our comments and directions in this review are editorial in nature and seek to eliminate ambiguity or errors in the tariff language. In a few instances, we request further explanation or find that some specific provisions are unreasonable or unjustified. We also discuss a number of issues of more general concern in the body of this order.

4. Appendix A contains a list of parties filing comments in CC Docket No. 83–1145, along with abbreviations for those parties. These abbreviations are used throughout our discussion of the non-ECA tariffs. This appendix also contains a summary list of access tariff filings, a table showing references to the ECA tariff, and instructions for filing revisions to those tariffs.

A. Availability of Currently Offered Services

5. Several commenters raise issues concerning services which are offered under the ECA access tariff but not offered under the BOCs access tariffs. For instance, many BOCs [2] list services they would not provide under Section 14 of their proposed access tariffs, "Exceptions to Access Service Offerings." [3] RCA claims that a number of telcos propose to withdraw or substantially degrade the quality of interconnection for many existing service offerings in apparent violation of Section 214 of the Act and Part 63 of the Rules. Western Union objects to the proposal of certain telcos to delete Group/Supergroup offerings or limit these offerings to existing customers, a practice Western Union claims is contrary to our *Memorandum Opinion and Order* in Docket 21449, 92 FCC 2d 1217 (1983), *recon. denied*, FCC 83–550, released December 12, 1983, 48 FR 7596 (February 23, 1983), that required AT&T to make these facilities available to OCCs and to the public. Western Union further objects to Mountain States Telephone's proposal in Section 14.2 of its tariff to limit metallic wire-pairs to existing locations.[4]

6. The present access tariff investigation has been primarily directed towards designing compensation arrangements whereby local exchange carriers may recover the costs of providing access services needed to complete interstate and foreign telecommunications. We do not believe this is the time or place for reductions in the level or quality of interconnection absent clear justification. Neither the Access Charge Rules nor the Bell System divestiture provides any such justification. *See* our *Notice of Proposed Rulemaking* in Phase III of CC Docket 78–72, FCC 83–178, released May 31, 1983, which is addressing the physical, technical and operational details of interconnected service under our access charge plan. Thus, we remind all telcos that they must comply with Section 214(a) of the Act and with Part 63 of our Rules as applicable in proposing to discontinue existing or currently offered services or facilities without prior Commission approval, regardless of whether such services are actually being utilized.[5] This applies equally to cases where the service or facility has been provided on a non-tariff basis. Telcos should also provide complete justification for any proposals to limit services or facilities for existing customers or existing locations. However, the issue of efficient use of Group/Supergroup channels for wideband services remains under consideration. *See Memorandum Opinion and Order* in Docket 21499, *supra*, at paras. 27 and 30–31. Until this issue is resolved, local distribution or Special Access channels for Group/Supergroup applications can be offered on an individual case basis. On the other hand, restrictions limiting Group/Supergroup facilities to existing customers would effectively preserve these services for AT&T while

[2] *E.g.*, New York Telephone, New England Telephone, Southern New England Telephone, Cincinnati Bell, Mountain States Telephone, Nevada Bell, and Southern Bell.

[3] Several independents, *e.g.*, Orchard Farm Telephone Co., Walnut Hill Telephone Co., and Matanuska Telephone Association, Inc., have indicated that Section 9 of their access tariffs, dealing with Directory Assistance Service (DA), has been left blank intentionally. The Telephone Utilities Exchange Carrier Association, instead of listing rates and charges in Section 9.4(C) and 9.6 of its tariff, cross-references its Section 5.3, which indicates that the inventory and personnel to provide DA service might not be available. If these (and other) carriers are not going to offer DA service, an offering provided for in § 69.109 of our Rules, their tariffs should state this fact for purposes of clarity.

[4] MCI claims that certain telcos will not offer VG13 service, which provides voice grade channels for intraLATA services that are jurisdictionally interstate. MCI asserts that for telcos with LATAs that cross state lines, omission of this offering will preclude MCI from offering interstate, intraLATA services. On this point, see our discussion in the introduction to Appendix B.

[5] *See* AT&T, Docket 20690, 69 FCC 2d 1696, 1698 (1978).

eliminating them for all OCCs, which is contrary to our decisions in Docket 21499 and unduly restrictive. Such restrictions should be deleted. Telcos should review their proposed access tariffs to determine if changes are necessary in accordance with all of the above guidelines. (See, *e.g.*, Section 7.2 throughout the BOC tariffs.)

B. Non-ECA Rates

7. In the *ECA Tariff Order* the Commission discussed in detail changes that it deemed necessary to conform that tariff to *Reconsideration Orders*,[6] changes in some of these rates would be necessary to implement and reflect the *Second Reconsideration Order*. Specifically, we said that with the deferral of the residential and single line business end user charges, the carrier common line rate element would presumable increase to recover this shortfall. In addition, the flat monthly rate for ENFIA-type access for OCCs could require adjustments in other carrier rate elements. Other rates, such as Special Access, could be indirectly affected because of shifts in demand caused by other rate changes and the revised application of Special Access Surcharges.

8. Notwithstanding the need for these changes, however, we were able to review and evaluate the ECA's proposed cost and rate development, including many individual rates which were not likely to change substantially, in order to determine the reasonableness of the methodology and support information used in that filing. We concluded that the support material filed by the ECA and the local exchange companies, including the BOCs, did not contain adequate information from which to judge whether the filed rates should be allowed to become effective. In a recent Information Request to the ECA,[7] the Common Carrier Bureau directed the submission of additional information needed for the Commission's review.[8]

9. Also in the *ECA Tariff Order* the Commission found that the proposed pricing structure for Special Access Service was unreasonable under Section 201(b) of the Communications Act, 47 U.S.C. section 201(b). We therefore required that the Special access rate structure be revised to correct the deficiencies noted in the order. In the Information Request, the Bureau stated that, because the proposed rates represented substantial increases for existing facilities and services, it was essential that the filing carriers explain fully the basis for their proposals. We thus instructed the ECA to provide adequate information to meet its burden of proving that its proposed special Access increases are reasonable and to specify all changes of circumstances which support the increases. Finally, in the *ECA Tariff Order* we concluded that the rate structure proposed for switched Access Service Access Connections, which bases the rate on busy hour minutes of capacity ordered, is unreasonable. We therefore directed the ECA and the BOCs to eliminate the Access Connection element for Switched Access Service, while permitting existing nonrecurring charges to be applied on an interim basis if the filing carrier wishes.

10. To the extent that other filing carriers have not joined ECA pools, their tariffs must implement the changes in rate provisions and structures required by the *ECA Tariff Order*. Most of those tariffs are similar in format, structure, and provisions to the ECA tariffs. Specific rates, however, often differ. Those rates are also likely to require changes in many cases to reflect our orders. For the ECA and the BOCs, we requested additional information to specifically trace the rate development for Switched Access and to justify the Special Access rates and the proposed increases. It is our expectation that this additional information will allow us to determine whether the filed rates may be allowed to become effective as scheduled. For the non-ECA, non-BOC independents we are not requiring the submission of specific additional information. Nonetheless, the support material filed with the independent tariffs will be judged by a similar standard. The material should detail clearly the source of the origianal cost data, the methodology used, the assumptions, and such other information as may be necessary to understand and evaluate the proposed rates. In particular, we need to trace the cost elements through the steps in the carrier's methodology through to the overall rates, so that we may judge the overall reasonableness of the rates and their compliance with the Part 69 Rules. The carriers should also explain and justify proposed changes in Special Access rates and structures, as compared to existing local private line offerings. We have attached a copy of the information request as Appendix C as guidance for filing carriers

C. Directions to Filing Carriers

11. We expect that the information supplied with the new non-ECA filings and the specific rates and provisions will comply with this order, so that we may allow the revised non-ECA tariffs to become effective. In any event, we will continue our investigation in CC Docket No. 83–1145 to monitor these filings and consider additional issues which we have not fully or permanently resolved here, and the new issues certain to arise. Any issues which have not been fully addressed or resolved in this order will be included in the continuing investigation.

12. Because of the tight schedule we are trying to meet and the mass of material the filing carriers must prepare and we must review, by this order we are establishing a specific set of requirements for all revised non-ECA access fillings, essentially identical to those for the ECA, except for a brief deferral of the filing date:

- Filing carriers must make no revisions, corrections, alterations, or other changes in the rates, terms, or conditions of the access tariff in the prescribed filing (other than to correct typographical errors such as spelling), except as expressly required or approved in this order, the *ECA Tariff Order* or the *Second Reconsideration*. These revisions shall conform to the applicable rule requirements of §§ 61.55(e), 61.94 and 61.118(a). However, the carriers need not symbolize material ressued without change as is required by § 61.118(b). To do so would result in symbolization that would be confusing. Specific instructions concerning the administrative details of filing these revisions can be found in Appendix A. Other changes which the filing carrier wishes to propose must be made in a separate filing pursuant to Part 61 of the Commission's Rules. 47 CFR Part 61.
- Filing carriers shall file in a separate volume as part of their support material a report specifying all revisions on a section-by-section basis, listing the language now pending, the proposed language (if any) and a reference to the specific Commission order, page and section or paragraph number which is implemented. The carrier may include

[6] MTS/WATS Market Structure, CC Docket No. 78–72, Phase I, Third Report and Order, 93 FCC 2d 241 (1983) modified on reconsideration FCC 83–356, released August 22, 1983.

[7] Letter to G.R. Evans, Director—Tariff and Regulatory Matters, NECA from the Chief, Common Carrier Bureau, February 24, 1984.

[8] Essentially, this information was required to trace the development of the ECA and BOC proposed rates, showing at each stage the source of the data, the assumptions and projections applied (and their justification), the specific process used to transform the data and the data which then resulted. In order to limit the information requested to that which we believed was necessary and manageable, we requested information for specific categories of carriers and for one individual carrier, New York Telephone, as a case study.

any explanation or justification of the proposed revisions in a separate section-by-section format.

13. We do not expect to modify or waive the requirements of this order before the effective date of conforming tariffs, absent exceptional circumstances. Reconsideration petitions or additional tariff filings should provide adequate opportunities to present any claims that revisions are needed. If a carrier does wish to request a waiver to allow a tariff provision which does not conform with this order to become effective immediately, it should present a full explanation and justification for all request for immediate relief in the form of a single waiver request submitted no later than March 12, 1984. We are currently considering pending requests for waivers in connection with these filings. We will allow these carriers four additional days beyond the scheduled ECA tariff filing date. Carriers are directed to file revised tariffs conforming with this order no later than March 19, to be effective April 3, 1984. A few carriers have stated that they may be unable to meet this filing date. We expect to consider their requests for a later date individually. We will strive to maintain this schedule. However, as we noted in the *ECA Tariff Order*, the task of revisions will be a lengthy and difficult one. It is nonetheless of crucial importance to meeting the April 3 date that filings be done correctly and well—and even more important that they be done quickly. We hope that the information provided and modifications made by carriers to be provisions and structure of their tariffs will remedy most of the problems identified concerning rates.

D. Ordering Clauses

14. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 201, 202, 203, 204(a) and 205, of the Communications Act, 47 U.S.C. 154(i), (j), 201, 202, 203, 204(a), and 205, that the tariff material submitted under the transmittals referenced above is unlawful to the extent indicated herein.

15. It is further ordered, That the Bell Operating Companies and Independent Telephone Companies shall file revised tariff material in compliance with this order no later than March 19, 1984 with a scheduled effective date of April 3, 1984.

16. It is further ordered, That §§ 61.58, 61.59, 61.74 and 61.118(b) of the Commission's Rules, 47 CFR 61.58, 61.59, 61.74 and 61.118(b) are waived to the extent required to file tariff revisions implementing this Order.

17. This order is exempt from the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* It involves a rule applicable to particular rates and to practices relating to such rates within the meaning of the exemption contained in 5 U.S.C. 601[2].

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-8549 Filed 3-30-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 84-12]

Ceres Gulf, Inc. v. Baton Rouge Marine Contractors, Inc., et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Ceres Gulf, Inc. against Baton Rouge Marine Contractors, Inc., and six other terminal operators located in the State of Louisiana was served March 23, 1984. Complainant alleges that respondents have violated sections 15, 16 First, and 17 of the Shipping Act, 1916, in connection with their activities regarding the use and lease of certain terminal areas at the Port of New Orleans.

This complaint has been assigned to Administrative Law Judge Charles E. Morgan. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 84-8723 Filed 3-30-84; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 9522-48]

Med-Gulf Conference; 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. 9522-48 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 is between Atlanttrafik Express Service, Achille Largo, C.I.A. Venezolana de Navegacion, Constellation Lines, S.A., Costa Line, D'Amico Line S.N.p.A., Egyptian Navigation Co., Ltd., Farrell Lines, Flota Mercante Grancolombiana S.A., Italian Line, Jugolinija, Jugooceanija, Lykes Lines, Nedlloyd Lines, Nordana Line/Dannebrog Lines, Sea-Land Service, Inc., Spanish Line and Zim Israel Navigation Co., Ltd.

The proposed amendment would primarily provide for conference intermodal authority within the scope of the Italy, South-France, South Spain, Portugal/U.S. Gulf and Puerto Rico trade. This authority is now being exercised by individual members.

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 and related environmental assessment are available for inspection on request 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. 84-8724 Filed 3-30-84; 8:45 am]

BILLING CODE 6730-01-M

[Agreement Nos. 2846-54, 5660-37 and 9515-38]

West Coast of Italy, Sicilian and Adriatic Port/North Atlantic Range Conference; Marseilles/North Atlantic U.S.A. Freight Conference; and Iberian/U.S. North Atlantic Westbound Freight Conference; 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 Nos. 2846-54, 5660-37 and 9515-38 will not constitute major Federal actions 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 preparations of environmental impact statements are not required.

Agreement No. 2846–54 is between Atlanttrafik Express Service, Spanish Line, Constellation Lines, S.A., Costa Line, Egyptian Navigation Co., Ltd., Farrell Lines, Inc., Italia S.p.A.N., Jugolinija, Nedlloyd Lines, Sea-Land Service, Inc. and Zim Israel Navigation Co., Ltd. The primary purpose of the proposed amendment is to place certain intermodal ratemaking authority within the scope of The West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference. This authority is now being exercised by individual members.

Agreement No. 5660–37 is between Nedlloyd Lines, Sea-Land Service, Inc., and Zim Israel Navigation Co., Ltd. The amendment would primarily place intermodal ratemaking authority within the scope of the Marseilles/North Atlantic U.S.A. Freight Conference. This authority is now being exercised by individual members.

Agreement No. 9615–38 is between Atlanttrafik Express Service, Spanish Line, Costa Line, Egyptian Navigation Co., Farrell Lines, Inc., Hapag Lloyd AG, Italia S.p.A.N., Nedlloyd Lines, Sea-Land Service and Zim Israel Navigation Co., Ltd. The proposed amendment of the Iberian/U.S. North Atlantic Westbound Freight Conference would provide for Conference U.S. intermodal authority. This authority is now being exercised by individual members.

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 and related environmental assessment are available for inspection on request 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. 84–8725 Filed 3–30–84; 8:45 am]

BILLING CODE 6730–01–M

GENERAL SERVICES ADMINISTRATION

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve four existing information collections.

DATE: Comment date: Submit comments on these collections before April 20, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Kathleen M. Lannon, Acting GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy, 202–523–4799.

SUPPLEMENTARY INFORMATION:

1. Economic Price Adjustment

a. *Purpose.* The requirement is necessary to determine the appropriate price adjustments required under a fixed-price contract.

b. *Annual reporting burden.* This is estimated as follows: Respondents and responses 283, hours 71.

2. Indirect Cost Rates

a. *Purpose.* This clause requires contractors to submit cost data for establishing final indirect cost rates.

b. *Annual reporting burden.* This is estimated as follows: Respondents, responses and hours 200.

3. Payments

a. *Purpose.* This clause requires contractors to provide evidence to support requests for payments under fixed-price construction contracts for determining the appropriate progress payments.

b. *Annual reporting burden.* This is estimated as follows: Respondents 13,700; responses 287,700; hours 5,754.

4. Price Redetermination

a. *Purpose.* This clause requires contractors to provide data on current and future costs for the establishment of appropriate price adjustments.

b. *Annual reporting burden.* This is estimated as follows: Respondents, responses and hours 100.

Obtaining copies of proposals. Copies of the proposals may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, DC 20405, telephone 202–566–0666.

Dated: March 26, 1984.

Frank J. Sabatini,

Director, Information Management Division.

[FR Doc. 84–8702 Filed 3–30–84; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81D–0319]

Public Meetings; Platelet Workshop; Availability of Draft Revised Guideline; Request for Comments

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) and the National Heart, Lung, and Blood Institute of the National Institutes of Health (NIH) are announcing a forthcoming 2-day public workshop to discuss issues concerning platelets. FDA is announcing the availability of, and requesting comments on, a draft revised guideline prepared by the Center for Drugs and Biologics (formerly the National Center for Drugs and Biologics) for the collection of Platelets, Pheresis perpared by mechanical pheresis. FDA also is announcing that any comments received on the draft revised guideline will be discussed during the second day of the public workshop..

DATES: The first day of the workshop, on storage of platelets, will be held on May 21, 1984, from 9 a.m. to 5 p.m. The second day of the workshop, to discuss comments on FDA's draft revised guideline, will be held on May 22, 1984, from 9 a.m. to 1 p.m. Comments on the draft revised guideline must be submitted by June 15, 1984; however, any comments to be discussed at the meeting should be received by May 1, 1984.

ADDRESSES: On May 21, 1984, the workshop will be held at Wilson Hall, Bldg. 1, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. On May 22, 1984, the workshop will be held in Bldg. 29, Rm. 115, 8800 Rockville Pike, Bethesda, MD 20205. Requests for a copy of the workshop agenda and any written comments or suggestions on the agenda may be submitted to Joseph Fratantoni, Center for Drugs and Biologics (HFN–833), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205. FDA may change the planned agenda following its review of comments. Single copies of the draft revised guideline are available form the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Comments on the draft revised guideline may be submitted to the Dockets Management Branch (address above).

FOR FURTHER INFORMATION CONTACT: Joseph Fratantoni, Center for Drugs and Biologics (HFN–883), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–496–2577.

SUPPLEMENTARY INFORMATION: For several years, FDA's Center for Drugs and Biologics and NIH's National Heart, Lung, and Blood Institute have been holding joint workshops related to current scientific knowledge regarding platelet function, viability, and physiology. On May 21, 1984, FDA and NIH will jointly sponsor a workshop concerning problems related to extended platelet storage. On May 22, 1984, FDA will hold a workshop to evaluate comments received in response to FDA's draft revised guideline for preparing Platelets, Pheresis. Platelets, Pheresis is a licensed biological product that may be prepared using automated equipment in a blood banking facility, such as by centrifugation of whole blood with a continuous or intermittent return of platelet-poor red blood cells and plasma to the donor. FDA and NIH will consider information provided during these meetings to develop plans for scientific and regulatory activities.

In the **Federal Register** of October 27, 1981 (46 FR 52430), FDA announced the availability of a guideline for the collection of Platelets, Pheresis prepared by mechanical pheresis using a currently approved instrument. FDA made available the guideline to recommend criteria for donor safety and to help ensure that final platelet products are safe and effective. FDA now is announcing the availability of a draft revised guideline intended to replace the current guideline for the product made available in 1981. The draft revised guideline differs from the current guideline in several ways, including a revised standard for Platelets, Pheresis, a provision for donation of platelets for a specific recipient, and removal of some required platelet testing and processing procedures during donation periods.

FDA is making available the draft revised guideline under 21 CFR 10.90(b), which provide for the use of guidelines to outline procedures or standards of general applicability that are acceptable to FDA for a subject matter that falls within the laws administered by FDA. Although guidelines are not a legal requirement, a person may be assured that in following an agency guideline the procedures followed and standards used will be acceptable to FDA. A person may also choose to use alternative procedures or standards for which there is scientific rationale even though they are not provided for in a guideline. A person who chooses to use procedures or standards different from procedures or standards in a guideline may discuss the matter further with the agency to prevent an expenditure of resources for work that FDA may later determine to be unacceptable.

Copies of the draft revised guideline have been distributed to blood bank establishments and plasma centers that have pending or approved license applications to prepare Platelets, Pheresis using pheresis instruments for which the Center for Drugs and Biologics has acceptable data. Additional copies of the draft revised guideline may be obtained from the Dockets Management Branch (address above).

Interested persons may, on or before June 15, 1984, submit to the Dockets Management Branch (address above) written comments regarding this notice and the draft revised guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 27, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–8650 Filed 3–28–84; 10:31 am]

BILLING CODE 4160–01–M

National Institutes of Health

Board of Scientific Counselors, NIA; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, May 8–10, 1984, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 8:30 a.m. on Tuesday, May 8, until approximately 4:00 p.m. and will be open to the public from 8:30 a.m. on Wednesday, May 9, until 4:00 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 8, from 4:00 p.m. until recess, and again on May 9 from 4:00 p.m. until adjournment on May 10, for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA Building 31, Room 2C–05, National Institutes of Health, Bethesda, Maryland 20205, (telephone: 301/496–5898) will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No 13.866, Aging Research, National Institutes of Health.)

Dated: March 14, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–8652 Filed 3–30–84; 8:45 am]

BILLING CODE 4140–01–M

National Digestive Diseases Advisory Board; Change in Meeting Location

Notice of the meeting location for the National Digestive Diseases Advisory Board meeting scheduled for May 4, 1984, 8:30 a.m. to 4:00 p.m., at Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland, published in the **Federal Register** on March 20, 1984 (48 FR 10372) has been changed to Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. The agenda and times remain the same.

Dated: March 26, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–8655 Filed 3–30–84; 8:45 am]

BILLING CODE 4140–01–M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board on May 8, 1984, 8:30 a.m. to adjourment, at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814. The meeting which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20205, (301) 496–6045, will provide an agenda and rosters of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: March 16, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–8651 Filed 3–30–84; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, June 25 and 26, 1984, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7N214, Bethesda, Maryland 20205. This meeting will be open to the public from 9:30 a.m. to 4:00 p.m. June 25 and from 9:30 a.m. to 12 noon on June 26 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12 noon to adjournment June 26 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, inlcuding consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496–2116.

Dated: March 14, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–8657 Filed 3–30–84; 8:45 am]

BILLING CODE 4140–01–M

NIH Conference Titled, Is the Marmoset an Experimental Model for the Study of Digestive Disease?

Notice is hereby given of the NIH conference titled "Is the Marmoset an Experimental Model for the Study of Digestive Disease?", sponsored by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, the National Cancer Institute, the Division of Research Resources and the Oak Ridge Associated Universities and the National Foundation for Ileitis and Colitis. The conference will be held on April 18–20, 1984 in the Pollard Auditorium of the Oak Ridge Associated Universities, Oak Ridge, Tennessee.

The inflammatory bowel diseases continue to be perplexing and significant problems in the cohort of digestive diseases. Although some advances have been made in our understanding of their pathophysiology, significant advances have not yet been made in the treatment and prevention of these diseases. A recent publication in Gastroenterology suggested a correlation between a spontaneously occurring colitis and cancer of the large bowel in the cottontop tamarin (marmoset), *Saguinus oedipus oedipus* (Gastroenterology 80:942–946, 1981). The purpose of this conference is to critically review the data on colitis and cancer of the colon in this species in order to develop a better understanding of whether or not the marmoset might serve as a model for the study of the corresponding human diseases.

Information on the program may be obtained from Dr. Kirt Vener, Program Director for Esophageal, Gastric and Colonic Diseases, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 3A16, Bethesda, Maryland 20205, (301) 496–7821.

Dated: March 26, 1984.

James B. Wyngaarden, M.D.,

NIH, Director.

[FR Doc. 84–8656 Filed 3–30–84; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research Programs Advisory Committee; Meeting

Pursuant to Pub. L. 92–463 notice is hereby given of the meeting of the National Institute of Dental Research Programs Advisory Committee from 9:00 a.m. to recess on May 3 and from 9:00 a.m. to adjournment on May 4, 1984, in Conference Room 8, Building 31C, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public to discuss research progress and ongoing plans and programs. Attendance by the public will be limited to space available.

Dr. Anthony Rizzo, Deputy Associate Director for Extramural Programs, NIDR, NIH, Westwood Building, Room 504, Bethesda, Maryland 20205 (telephone 301 496–7748) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs No. 13.840–Caries Research, 13.841–Periodontal Diseases Research, 31.842–Craniofacial Anomalies Research, 13.843–Restroative Materials Research, 13.844–Paine Control and Behavioral Studies, 13.878–Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Dated: March 26, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–8653 Filed 3–30–84; 8:45 am]

BILLING CODE 4140–01–M

Ad Hoc Working Group To Develop Radioepidemiological Tables

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Ad Hoc Working Group to Develop Radioepidemiological Tables, April 20, 1984, in Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9.00 a.m. to approximately 5:00 p.m. to develop radioepidemiological tables in response to Pub. L. 97–414. Attendance by the public will be limited to space available.

For additional program information, summaries of the meeting and roster of the Committee members, contact Dr. Victor H. Zeve, Landow Building, Room 3A10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5266.

Dated: March 22, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–8659 Filed 3–30–84; 8:45 pm]

BILLING CODE 4140–01–M

Amended Notice of Meeting; President's Cancer Panel

The notice of the meeting of the President's Cancer Panel, National Cancer Institute, April 9, 1984, at the Mayer Auditorium, University of Southern California, School of Medicine, 20205 Zonal Avenue, Los Angeles, California 90033, commencing at 9:00

a.m. and published in the Federal Register on February 28 (49 FR 7296), is hereby amended. The meeting has been extended to April 10 to allow adequate time to cover an expanded agenda. The entire meeting will be open to the public on April 9 from 8:30 a.m. through adjournment on April 10. Attendance by the public will be limited to space available. For further information, please contact Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20205 (301/496-1148).

Dated: March 16, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-8656 Filed 3-30-84; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Cooperative Agreements; Preventive Health Services Study of Family Members of Heterosexual Patients With Acquired Immunodeficiency Syndrome (AIDS); Availability of Funds for Fiscal Year 1984

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1984 for cooperative agreements for a collaborative study of family members of heterosexual patients with Acquired Immunodeficiency Syndrome (AIDS), Catalog of Federal Domestic Assistance Number 13.118. This program is authorized by section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. Office of Management and Budget clearance may be required for this project.

The objectives of this program are to study the risk of acquiring AIDS or signs and symptoms associated with AIDS among family members or other household contacts of heterosexual AIDS patients.

The collaborative and programmatic involvement of recipient(s) of funds and CDC is as follows:

1. *Recipient Medical Institution(s) Activities.*—a. Design an epidemiologic protocol and interview questionnaire for studying heterosexual AIDS patients, their family members, and control families.

b. Develop procedures for identifying, contacting, and scheduling AIDS patients, their family members, and control patients.

c. Interview, provide physical examinations, and obtain biological specimens from patients, their family members, and control patients. Physical examinations and collection of specimens will be repeated every 4 months for a year.

d. Collaborate with CDC in the analysis, presentation, and publication of study results.

e. Provide prevention counselling to study participants based upon findings of the study.

2. *Centers for Disease Control Activities.*—a. Assist in developing the study protocol and designing the interview questionnaire.

b. Provide epidemiologic assistance in conducting the study including selection of cases and controls for inclusion in the study and training of interviewers.

c. Perform laboratory studies on specimens obtained from study participants.

d. Provide data analysis and assist in the presentation and publication of study findings.

Progress reports of cooperative agreement activities will be submitted by recipient(s) of funds quarterly for the first year and semiannually thereafter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

Approximately $250,000 will be available to fund one to three cooperative agreements. Applications should be submitted for a 1-year budget period and 1- to 3-year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change due to budgetary uncertainties. Cooperative agreement funds may be used to support personnel and to purchase supplies and services directly related to conducting a study of family members of heterosexual patients with AIDS. Funds may not be used to support construction or renovation costs.

Eligible applicants include medical institutions or complexes (e.g., affiliated hospitals) which:

1. Have cared for and reported to CDC at least twenty-five heterosexual adult and/or pediatric AIDS patients who meet the CDC surveillance case definitions. For adults, this definition requires that patients be less than 60 years of age and have biopsy-proven Kaposi's sarcoma and/or biopsy-proven or culture-proven infection at least moderately predictive of cellular immunodeficiency. Excluded are patients who either received immunosuppressive therapy before the onset of illness or had preexisting illnesses associated with immunosuppression. For children, the same definition applies with the additional requirements of excluding patients with congenital infections or known congenital immunodeficiency syndrome.

2. Expect to acquire enough new patients meeting the above criteria over a 12-month period so that the institution will be able to follow 100 family members of heterosexual adult or pediatric AIDS cases. A family member is defined as:

a. A natural child of an adult index case or the natural parent of a child index case regardless of whether they are residing or have resided in the same household, or

b. Any other persons sharing the same household of the index case for at least 3 months during the time period from 2 years prior to onset of AIDS symptoms in the index case to the present.

3. Will be able to identify and follow a suitable control group (families reasonably matched for socioeconomic factors, size, and compositon).

Evaluation and ranking of applications will be based on the following factors:

1. The total number of heterosexual adult and/or perdiatric AIDS patients reported since June 1981 that meets the CDC surveillance case definition.

2. The applicant's understanding of the problem and the purpose of the AIDS cooperative agreement.

3. The applicant's current activities in AIDS research and their relationship with other AIDS investigators in the area.

4. The details of how the applicant plans to develop and implement a study among family members of heterosexual AIDS patients describing how patients, family members, and controls will be selected, located, and interviewed.

5. The size, qualification, and time allocation of the proposed staff and the availability of facilities to be used during the study.

6. How the project will be administered.

7. A proposed schedule for accomplishing the activities of the cooperative agreement including time frames.

Appications must include a narrative which summarizes:

1. The background and need for project support, including information that relates to factors by which the applications will be evaluated.

2. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time-phased.

3. The methods which will be used to accomplish the objetives. (Of special importance will be the methods used to identify, contact, schedule for interview, and collect biologic specimens from AIDS petients and their family members and controls.)

4. The methods which will be used to evaluate the success of study components.

5. Fiscal information pursuant to utlizaiton of awarded funds in a manner consistent with the purpose and objectives of the project.

6. Any other inforamtion that will support the request for assistance.

The original and one copy of the application must be submitted to Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, on or before 4:30 p.m. (e.d.t.) on May 31, 1984.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

3. *Late Applications.*—Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications and will not be considered in the current competition.

Applications are not subject to the review requirements of the National Health Planning and Resource Development Act of 1974, as amended, to intergovernmental review pursuant to Executive Order 12372.

Information on application procedures, copies of application forms, and other material may be obtained from Luther DeWeese, Grants Managements Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30304, or by calling (404) 262–6575 or FTS 236–6575. Technical assistance may be obtained from Harold W. Jaffe, M.D., and Martha Rogers, M.D., AIDS Activity, Center for Infectious Diseases, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–3162 or FTS 236–3162.

Dated: March 22, 1984.

James O. Mason,

Director, Centers for Disease Control.

[FR Doc. 84–8701 Filed 3–30–84; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notification of Owyhee Canyonlands Wilderness Hearings Location Change and Public Comment Period Change

Information regarding the availability of the Draft Owyhee Canyonlands Wilderness EIS, the timing and location of Wilderness Hearings, and the public comment period was published in the Federal Register on February 24, 1984; Vol. 49, No. 38, pages 7002 and 7003. Since this publication, the following changes have been made:

1. The public hearings scheduled in Portland Oregon will be held at the Cosmopolitan Hotel, 6th floor conference room, 1030 NE Union in place of at the Thunderbird-Coliseum Motel. The times and date have not been changed.

2. The public comment period will close on May 31, 1984, in place of May 24, 1984.

J. David Brunner,

Associate District Manager.

[FR Doc. 84–8704 Filed 3–30–84; 8:45 am]

BILLING CODE 4310–GG–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications; Patricia G. Lincoln et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Patricia G. Lincoln, Columbia, S.C. APP #597502.

The applicant requests a permit to take (=collect) seeds from 200 flowers, 100 whole flowers and approximately 5 whole plants of salt marsh bird's beak (*Cordylanthus m. maritimus*) for scientific research.

Applicant: Aryan I. Roest, San Luis Obispo, CA. APP #560090.

The applicant requests a permit to take Morro Bay kangaroo rats (*Dipodomys heermanni morroensis*) for enhancement of propagation.

Applicant: Zoological Society of San Diego, San Diego, CA. APP #153239.

The applicant requests a permit to import two pairs of the black-footed cat (*Felis nigripes*) from Zoo Wuppertal, West Germany, for enhancement of propagation.

Applicant: Frank S. Porcari, College Point, NY. APP #152598.

The applicant requests a permit to take (capture, band, release) Arctic and American peregrine falcons (*Falco peregrinus tundris, F. p. anatum*) in New York for scientific research.

Applicant: Dr. Joseph M. Meyers, Aiken, SC. APP #591958.

The applicant requests a permit to take (=harass) 200 wood storks (*Mycteria americana*). Eight adult and eight 6-week old birds are to be radio-tagged and approximately 150–190 will be color leg-banded for scientific research.

Applicant: Zoological Society of San Diego, San Diego, CA. PRT 2–8649.

The applicant requests a permit to import 4 male and 8 female wild-caught cheetahs (*Acinonyx jubatus*) from Namibia for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 North Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, of data to the Director at the above address. Please refer to the appropriate PRT 2 # or APP # when submitting comments.

Dated: March 27, 1984.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84–6660 Filed 3–30–84; 8:45 am]

BILLING CODE 4310–07–M

Issuance of Permit for Marine Mammals; Richard M. Silverstein

On January 26, 1983, a notice was published in the Federal Register (48 FR 3664) that an application had been filed with the Fish and Wildlife Service by Richard M. Silverstein, M.D., *et al.*, for a permit to sacrifice one adult polar bear (*Ursus Maritimus*) for biomedical research.

Notice is hereby given that on March 2, 1984, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued a permit (PRT 2–

9931), to Dr. Silverstein subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: March 27, 1984.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 84-8661 Filed 3-30-84; 8:45 am]

BILLING CODE 4310-07-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30436]

Union Pacific Railroad Company, Operation Exemption; Missouri Pacific Railroad Company; Exemption

Union Pacific Railroad Company (UP) has filed a notice of exemption to operate over approximately 424 feet of track owned by the Missouri Pacific Railroad Company (MP) at Hiawatha, KS. Also at Hiawatha there will be an installation of two No. 14 turnouts in MP's main track and rearrangement of UP's trackage to connect with these turnouts. This installation and connection will eliminate the need for the existing UP-MP railroad crossing frog. Both carriers are part of the Union Pactific System.

This is a transaction within a corporate family of the type specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employee affected by the transfer shall be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights-BN*, 354 I.C.C. 605 (1978), and modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 16, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-8705 Filed 3-30-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

Advisory Committee on Sheltered Workshops—Subcommittee on Learning Disabilities

The Subcommittee on Learning Disabilities of the Advisory Committee will meet in Room S3215B of the Frances Perkins Building, 200 Constitution Avenue NW., Washington, D.C. on April 18, at 2:00 p.m.

The Advisory Committee provides advice and recommendations to the Department concerning the administration and enforcement of the Fair Labor Standards Act and other federal labor laws as these laws relate to the employment under certificate of handicapped individuals with impaired productivity in sheltered workshops, hospitals, and institutions at special wage rates below the minimum wage otherwise applicable. The Subcommittee on Learning Disabilities will meet to consider the conditions under which individuals who have been diagnosed as learning disabled may be considered to be handicapped for purposes of the applicable laws.

The purpose of the Subcommittee, as set forth by the Committee, is threefold: (1) To recommend language defining learning disabilities; (2) to recommend whether or not learning disabilities should be accepted as a handicap under the Department of Labor regulations authorizing payment of subminimum wages under the Fair Labor Standards Act; and (3) to provide guidance to the full Advisory Committee on any parameters or limitations when learning disabilities may not meet the appropriate definition of handicapped conditions.

Members of the public are invited to attend the proceedings. Written data, views, or arguments pertaining to the business before the Subcommittee are also invited. Such comments must be received by the Committee's Secretariat prior to the meeting.

Questions concerning this meeting should be directed to: Arthur H. Korn, Secretariat for the Advisory Committee on Sheltered Workshops, Room C4316, Frances Perkins Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone number (202) 523-8727. This is not a toll free telephone number.

Signed in Washington, D.C. this 26th day of March 1984.

William M. Otter,

Administrator.

[FR Doc. 84-8758 Filed 3-30-84; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 19, 1984–March 23 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,896; A & E Machine Shop, Inc., Lone Star, TX

TA-W-14,963; The Potters Supply Co., East Liverpool, OH

TA-W-14,814: Mesta Machine Co., West Homestead, PA

TA-W-14,986; Sew What's, Inc., Hialeah, FL

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,996; U.S. Steel Corp., Great Lakes Fleet, Inc., Rogers City, Mi

Affirmative Determination

TA–W–14,946; Jo-Je Manufacturing Co., Inc., Summit Hill, PA

A certification was issued covering all workers separated on or after June 21, 1982 and before June 30, 1983.

I hereby certify that the aforementioned determinations were issued during the period March 19, 1984–March 23, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 27, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–8759 Filed 3–30–84; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 12, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 12, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601, D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 26th day of March 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–8652 Filed 3–29–84; 8:45 am]

BILLING CODE 4310–84–M

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Hoist, American Crane Div. (USWA)	Fort Wayne, IN	3/20/84	3/12/84	TA–W–15,260	Model 500 cranes, carriers, backhoes and hoist.
Atlas Chain Co. (UAW)	West Pittston, PA	3/19/84	3/19/84	TA–W–15,261	Precision roller chains.
Bucyrus-Erie Co. (USWA)	S. Milwaukee, WI	3/20/84	3/13/84	TA–W–15,262	Foundry-mining equipment, drag lines cranes.
Cities Service Co., Butyl Rubber Plant, Columbian Chemicals (workers).	Lake Charles, LA	3/19/84	3/15/84	TA–W–15,263	Butyl rubber production.
Diamond Power Specialty Co. (USWA)	Lancaster, Ohio	3/16/84	3/14/84	TA–W–15,264	Boiler cleaning equipment.
Harley-Davidson Motor Co., Inc. (AIW)	Milwaukee, WI	3/20/84	3/16/84	TA–W–15,265	Motorcycle engines, transmissions, parts and accessories.
Do.	Wauwatosa, WI	3/20/84	3/16/84	TA–W–15,266	Do.
Do.	Tomahawk, WI	3/20/84	3/16/83	TA–W–15,267	Do.
M & E Sportswear (ILGWU)	New York, NY	3/5/84	2/29/84	TA–W–15,268	Contractor of ladies skirts and slacks.
McQuay-Norris Manufacturing Co. (workers)	Connersville, IN	3/20/84	3/15/84	TA–W–15,269	Bearing shells, aluminum pistons, cast iron tractor sleeves, cast iron auto water pumps.
Ontario Forge Corp. (USWA)	Muncie, IN	3/19/84	3/14/84	TA–W–15,270	Jet engine airfoil blades forgings.
Reed & Barton Corp. (United Silverworkers)	Taunton, MA	3/19/84	3/13/84	TA–W–15,271	Flatware, silverplated holloware, knives, forks, spoon, bowls, pots, etc.
Scotts Run Manufacturing Co. (workers)	Radford, VA	3/20/84	3/12/84	TA–W–15,272	Ladies' blouses.
Sylvania Shoe Manufacturing Corp. (workers)	Waynesboro, PA	3/20/84	3/17/84	TA–W–15,273	Sews shoes together.
Do.	Greencastle, PA	3/20/84	3/17/84	TA–W–15,274	Sews shoes and lasted shoes.
Utica Cutlery Co. (USWA)	New York Mills, NY	3/19/84	3/14/84	TA–W–15,275	Stainless steel flatware, pocket knives, and butcher knives.
Do.	Utica, NY	3/19/84	3/14/84	TA–W–15,276	Do.

[FR Doc. 84–8757 Filed 3–30–84; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[84–30]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

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 the submission.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be reviewed in writing by April 12, 1984. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl F. Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546. Kenneth Allen, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl F. Steinmetz, NASA Agency Clearance Officer, (202) 453–2921.

Reports

Title: NASA Grant and Cooperative Agreement Handbook, Property.

Type of Request: Existing collection in use without an OMB control number.

Frequency of Report: Annual.

Type of Respondent: Non-profit institutions.

Number of Recordkeeping Hours: 78,525.

Abstract-Needs/Users: Property records and reporting are required to ensure appropriate utilization, safekeeping, accountability and internal control for items provided by NASA or acquired with NASA provided funds.

Title: NASA Grant and Cooperative Agreement Handbook, Financial.

Type of Request: Existing collection in use with an OMB approval number.

Frequency of Report: Monthly.

Type of Respondent: Non-profit institutions.

Number of Recordkeeping Hours: 125,640.

Abstract-Needs/Users: Financial recordkeeping and reporting are required to ensure proper accountability for and use of NASA-provided funds.

Title: NASA Grant and Cooperative Agreement Handbook, Patents.

Type of Request: Existing collection in use with an OMB approval number.

Type of Respondent: Non-profit institutions.

Frequency of Report: As required.

Number of Recordkeeping Hours: 37,692.

Abstract-Needs/Users: Reports and records regarding patents are required to comply with statutes and the OMB and NASA implementing regulations.

Title: NASA Grant and Cooperative Agreement Handbook, Renewal Proposals.

Type of Request: Existing collection in use with an OMB approval number.

Type of Respondent: Non-profit institutions.

Frequency of Report: Annual.

Annual Responses: 1221.

Annual Reporting Hours: 24,420.

Abstract-Needs/Users: The continued applicability of sponsored research to NASA's needs and the intrinsic merit of project effort is verified by requiring updated technical proposals for review and evaluation prior to re-authorizing on-going work.

Dated: March 27, 1984.

L. W. Vogel,

Director, Logistics Management and Information Programs Division.

[FR Doc. 84-8648 Filed 3-30-84; 8:45 am]

BILLING CODE 7510-01-M

[84-31]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Taylor Wang of Pasadena, California, a limited, exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,279,632 for a "Method and Apparatus for Producing Concentric Hollow Spheres" which issued on July 21, 1981, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by June 1, 1984.

ADDRESS: National Aeronautics and Space Administration, Code GP Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, Director of Patent Licensing, (202) 453–2430.

Dated: March 20, 1984.

S. Neil Hosenball,

Acting General Counsel.

[FR Doc. 84-8649 Filed 3-30-84; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Senior Executive Service; Performance Review Board Membership

March 26, 1984.

NCLIS Performance Review Board—The following Members of the National Commission on Libraries and Information Science (NCLIS) serve as the Performance Review Board for SES employees of NCLIS:

Bessie B. Moore, Chair
Carlos A. Cuadra
Jerald Newman
William A. Welsh

For additional information please contact: Sarah G. Bishop, Deputy Director, 202–382–0840.

Sarah G. Bishop,

Deputy Director.

[FR Doc. 84-8668 Filed 3-30-84; 8:45 am]

BILLING CODE 7527-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Acts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (US/Japan Fellowships Section) to the National Council on the Arts will be held on April 19, 1984, from 9:30 a.m.–12:30 p.m. in Room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel, National Endowment for the Arts.

March 26, 1984.

[FR Doc. 84–8699 Filed 3–30–84; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composer Prescreening) to the National Council on the Arts will be held on April 26–28, 1984, from 9:00 a.m.– 5:30 p.m., in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C.

This meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

March 26, 1984.

[FR Doc. 84–8698 Filed 3–30–84; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Prescreening Section) to the National Council on the Arts will be held on April 16–17, 1984, from 9:00 a.m.–5:30 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and 9(b) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

March 26, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–8697 Filed 3–30–84; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Prescreening Section) to the National Council on the Arts will be held on April 19, 1984, from 9:00 a.m.–5:30 p.m. in room 716 and on April 20, 1984, from 9:00 a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 26, 1984.

[FR Doc. 84–8697 Filed 3–30–84; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, The National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics.

Date and Time: April 19, 20, & 21, 1984:
Thursday—9:00 am to 7:00 pm
Friday—9:00 am to 7:00 pm
Saturday—9:00 am to 5:00 pm

Place: Room 1224, National Science Foundation, 18th and G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Daniel H. Newlon, Program Director for Economics, Room 312, National Science Foundation, Washington, DC 20550 Telephone (202) 357–9674.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in the Economics Program.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, of July 6, 1979.

Dated: March 28, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–8753 Filed 3–30–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Law and Social Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Law and Social Sciences.

Date and Time: April 19–20, 1984: 9:00 A.M. to 5:30 P.M. each day.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed—9:00 A.M. to 5:00 P.M., April 19–20, 1984.

Contact Person: Dr. Felice J. Levine, Program Director, Law and Social Sciences, Room 312, National Science Foundation, Washington, DC 20550 telephone (202) 357–9567.

Summary of Minutes: May be obtained from the contact person Dr. Felice J. Levine at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research and research-related projects in law and Social Sciences.

Agenda: Review and evaluation of research and research-related proposals as part of the award selection process.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: March 28, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–8754 Filed 3–30–84; 8:45 am]

BILLING CODE 7555–01–M

Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee.

Place: Room 543, National Science Foundation, 1800 "G" Street, NW., Washington, DC 20550.

Date: Thursday, April 19; Friday, April 20; and Saturday, April 21, 1984

Time: 9:00 a.m.—5:00 p.m., those days

Type of Meeting: Part Open—April 19, 9–1 (Open), April 19, 1–5 (Closed); Part Open—April 20, 9–1 (Open), April 20, 1–5 (Closed); Part Open—April 21, 9–1 (Closed), April 21, 1–5 (Open).

Contact Person: Dr. Lewis H. Nosanow, Director, Division of Materials Research, Room 408, National Science Foundation, Washington, DC, 20550, Telephone: (202) 357–9794.

Summary Minutes: May be obtained from the Contact Person, Dr. Lewis H. Nosanow at the above stated address.

Purpose of Subcommittee: To provide advice and recommendations concerning support of materials research.

Agenda

Thursday, April 19, 1984—9:00 a.m. to 1:00 p.m. (Open)

9:00 a.m. Introductory remarks, overviews of the NSF, the Mathematical and Physical Sciences Directorate, and the Division of Materials Research (DMR)
10:30 a.m. Overviews of the Materials Research Laboratory Program (MRL), the Facilities Program (FAC), and the Instrumentation for Materials Research Program (IMR).
12:00 noon Lunch
1:00 p.m. Oversight review of the Materials Research Laboratories, the Facilities, and the Instrumentation for Materials Research Program. Review and comparison of declined proposals (and supporting documentation) with successful awards including review of peer review and other privileged materials. (CLOSED)
5:00 p.m. Adjourn

Friday, April 20, 1984—9:00 a.m. to 1:00 p.m. (Open)

9:00 a.m. Convene
9:15 a.m. Discussion of Current Status of Materials Research Groups Program
10:00 a.m. Discussion of Creativity Extensions
10:45 a.m. Trends and Opportunities in Materials Research
12:00 noon Lunch
1:00 p.m. Oversight review (Continued)
5:00 p.m. Adjourn

Saturday, April 21, 1984—9:00 a.m. to 1:00 p.m. (Closed)

9:00 a.m. Convene
9:15 a.m. Oversight review (Continued)
12:00 noon Lunch
1:00 p.m. Concluding Discussion
5:00 p.m. Adjourn

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: March 28, 1984.

M. Rebecca Winkler,

Committee Mangement Coordinator.

[FR Doc. 84–8752 Filed 3–30–84; 8:45 am]

BILLING CODE 7555–01–M

Committee on Equal Opportunities in Science and Technology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Technology.

Place: Rm. 540, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Date: Thursday and Friday, April 19–20, 1984.

Time: Thursday, 9–5 p.m.; Friday, 9–3 p.m.

Type of Meeting: Open.

Contact Person: Ms. Jane Stutsman, Executive Secretary of the Committee, National Science Foundation, Rm. 425, 1800 G Street, N.W., Washington, D.C. 20550 Telephone: 202/357–9418.

Purpose of Committee: To provide advice to the Foundation on policies and activities of the Foundation to encourage full participation of women, minorities, the handicapped and other groups currently underrepresented in scientific, engineering, professional and technical fields.

Summary Minutes: May be obtained from the contact person at the above stated address.

Agenda: To review progress by the two subcommittees of the NSF Committee on Equal Opportunities in Science and Technology and to meet with the Director and other NSF staff.

M. Rebecca Winkler,

Committee Management Coordinator.

March 28, 1984.

[FR Doc. 84–8755 Filed 3–30–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–237; License No. DPR–19 EA 83–103]

Commonwealth Edison Co. (Dresden Nuclear Power Station Unit 2); Order Imposing Civil Monetary Penalty

I

Commonwealth Edison Company (the "licensee") is the holder of Operating License No. DPR–19 issued by the Nuclear Regulatory Commission (the "Commission") that authorizes the licensee to operate the Dresden Nuclear Power Station, Unit 2, in accordance with the conditions specified therein. The license was issued on December 22, 1969.

II

A special inspection of the licensee's activities under the license was conducted during the period June 6 through September 8, 1983. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated November 18, 1983. The Notice states the nature of the violation,

requirements of the Commission that the licensee had violated, and the amount of civil penalty proposed for the violation. An answer dated January 20, 1984, to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of Commonwealth Edison Company's response and the statements of fact, explanation, and argument contained therein, as set forth in the Appendix to this Order, the director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Fifty Thousand Dollars ($50,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether on the basis of such violation this Order should be sustained.

Dated at Bethesda, Maryland this 23rd day of March 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusions

On November 18, 1983 the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty to the Commonwealth Edison Company for violations identified at the Dresden Nuclear Power Station. Commonwealth Edison's response to the Notice dated January 20, 1984 has been reviewed by the NRC Staff. The Staff's evaluation of this response is presented below.

Summary of Licensee's Response

In its response the licensee admits that the violation occurred as described in the Notice of Violation; however, the licensee asserts that the violation should not be categorized at Severity Level III and requested the NRC to reclassify the violation as a Severity Level IV. The licensee stated, "The Severity Level of any violation should be characterized by the safety significance of the event. In this matter we do not believe the characterization of the event as a Severity Level III violation is appropriate. This conclusion stems from the fact that, although we exceeded the allowable primary containment leakage rate in Section 3.7.2 of the Technical Specifications, our own conservative calculations showed that had a release occurred it would not have exceeded Part 100 guidelines. The safety significance of this event should be based on 10 CFR Part 100 criteria and not on the conservation limits set within the Technical Sepcifications. These leakage limits, as noted in the bases of the Technical Sepcifications, are conservatively derived from Part 100 limits and, therefore, we are being unnecessarily penalized because of conservative Technical Specifications."

NRC Evaluation

As described in the Notice, the violation was not based on allowable primary containment leakage rates but instead on whether the quality assurance requirements of 10 CFR Part 50, Appendix B, were met. The licensee failed to classify vacuum breaker shaft arm seals in accordance with 10 CFR Part 50, Appendix B, and failed to ensure that the seals would perform their safety function if called upon in an event. The licensee's assumption that the leak rate under accident conditions would be the same as those observed during 10 CFR Part 50, Appendix J, tests cannot be supported. The seals were not qualified to function in an environment that could exist during an accident condition. Therefore, the leak rate under these conditions was indeterminate. The General Policy and Procedure for NRC Enforcement Actions (10 CFR Part 2, Appendix C), Supplement I, Section C.2, cites as an example of a Severity Level III violation, "A system designed to prevent or mitigate a serious safety event not being able to perform its intended function under certain conditions (e.g., . . . materials or components not environmentally qualified)." Since the seals had not been qualified to perform within an accident environment, this violation has been properly classified at Severity Level III.

Conclusion

As discussed above, the violation did occur as described in the Notice and the violation was correctly classified as a Severity Level III in accordance with the NRC Enforcement Policy.

The licensee has not provided adequate reason to justify mitigation of the proposed civil penalty.

[FR Doc. 84-8720 Filed 3-30-84; 8:45am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection: NRC Form 313—Application for Material License.

3. The form number if applicable: NRC Form 313.

4. How often the collection is required: new applications may be submitted at any time. Renewals are submitted every five years.

5. Who will be required or asked to report: Persons desiring a specific license to possess, use, or distribute byproduct or source material.

6. An estimate of the number of responses: 6,200.

7. An estimate of the total number of hours needed to complete the requirement or request: 54,250.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC Form 313, "Application for Material License," simplifies and consolidates in one form the Materials license applications which previously required five different forms. It will replace NRC Forms 2, 3131, 313R, 313M, and 313T.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 28th day of March 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–8721 Filed 3–30–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–275]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Unit 1)

Notice is hereby given that the Director, Office of Inspection and Enforcement, has denied a petition under 10 CFR 2.206 filed by Joel R. Reynolds *et al.*, attorneys for the joint intervenors to the Diablo Canyon operating license proceeding. In its petition, the joint intervenors alleged that Pacific Gas and Electric Company failed to report the existence of a 1977 audit performed by Nuclear Services Corporation of Pullman Power Products' quality assurance program for Pullman's activities as the principal piping contractor for Diablo Canyon. On this basis, the joint intervenors asked that the Commission revoke or continue the suspension of the low power license.

Although the staff agrees that the audit should have been reported, license suspension or revocation is not warranted and, accordingly, the joint intervenors' request has been denied. The reasons for the denial of the joint intervenors' petition are fully described in the "Director's Decision Under 10 CFR 2.206" issued on this date, which is available for pubic inspection in the Commission's Public Document Room located at 1717 H Street NW., Washington, D.C. 20555, and in the local public comment room for the Diablo Canyon Power Plant located at San Luis Obispo County Free Library, 888 Morro Street, San Luis Obispo, California 93406. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 26 day of March 1984.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84–8722 Filed 3–30–84; 8:45 am]

BILLING CODE 7590–01–M

Meeting on Mission Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) announces a meeting with the U.S. Department of Energy (DOE), to review NRC staff comment on high-level waste repository portion of the draft DOE Civilian Radioactive Waste Management Program Mission Plan.

TIME AND DATE: The meeting will be held on April 11, 1984, at 10:00 a.m.

ADDRESS: The meeting will be held at the Department of Energy, Forrestal Building, Room 1E 245, Washington, D.C. 20585.

Status: Open to the public as observers.

FOR FURTHER INFORMATION CONTACT: Hubert J. Miller, Chief, Repository Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427–4177 or FTS 427–4177.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss the NRC comments on the repository portion of the DOE December 20, 1983 draft Mission Plan in more detail and to provide additional information to DOE on NRC regulations and licensing requirements as needed. The Mission Plan is being prepared by DOE pursuant to Section 301 of the Nuclear Waste Policy Act of 1982. NRC's comments on the draft Mission Plan were sent to DOE in a letter on February 8, 1984. Later meetings may be held to discuss other aspects of the Mission Plan if needed.

Dated at Silver Spring, Maryland, this 27th day of March 1984.

For the Nuclear Regulatory Commission.

Hubert J. Miller,

Chief, Repository Projects Branch, Division of Waste Management.

[FR Doc. 84–8719 Filed 3–30–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting (Revised)

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 April 5–7, 1984, in Room 1046, 1717 H Street NW., Washington, DC. Prior notice of this meeting was published in the **Federal Register** on March 26, 1984 (49 FR 11268). This notice is now being revised to schedule an item regarding the Diablo Canyon Nuclear Plant Operating License. Urgent ACRS consideration of this subject was requested by the Nuclear Regulatory Commission on March 27, 1984 because of matters related to the safety of the facility. It has been determined that good cause exists for publishing the revised agenda with less than 15 days notice.

The agenda for the subject meeting has been revised as noted below:

Thursday, April 5, 1984

8:30 a.m.–8:45 a.m.: Chairman's Report (Open)—The ACRS Chairman will report briefly to the Committee regarding items of current interest.

8:45 a.m.–12:00 noon: Maintenance Policies and Practices (Open/Closed)—The members will hear and discuss the report of its subcommittee and members of the NRC staff regarding maintenance policies and practices in nuclear power plants.

A portion of this session will be closed to discuss information provided in confidence by a foreign source.

1:00 p.m.–3:00 p.m.: Ginna Nuclear Power Plant (Open)—The members will hear and discuss reports from its subcommittee, the NRC Staff, and the Licensee regarding the request for a full term operating license for this facility.

Portions of this session will be closed as necessary to discuss Proprietary material applicable to this matter.

3:00 p.m.–3:30 p.m.: Future Activities—The members will discuss anticipated ACRS subcommittee activity and items proposed for consideration by the full Committee.

3:30 p.m.–4:30 p.m.: Activities of NRC Regional Offices (Open)—The members will hear and discuss a report from an NRC Regional Director regarding the activities of NRC regional offices.

4:30 p.m.–5:00 p.m.: Subcommittee Activities (Open)—The members will hear and discuss reports of designated Subcommittees regarding the status of assigned activities including provisions for ECCS and decay heat removal.

Friday, April 6, 1984

8:30 a.m.–12:30 a.m.: Diablo Canyon Nuclear Plant (Open)—The members of the Committee will discuss a Differing Professional Opinion related to the quality assurance/quality control of small bore and large bore piping in this plant.

1:30 p.m.–2:15 p.m.: Implementation of Regulatory Guide 1.97, Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident (Open)—The members will hear a briefing regarding the status of implementation of Regulatory Guide 1.97.

2:15 p.m.–3:00 p.m.: Nuclear Power Plant Operating Experience (Open)—The Committee will hear and discuss a proposed NRC Bulletin regarding operation of undervoltage trip devices in nuclear power plant circuit breakers.

3:00 p.m.–3:30 p.m.: Passive Containment System (Open)—The Committee will discuss a proposed ACRS reply to the request for a preapplication review of the passive containment system.

3:30 p.m.–5:30 p.m.: Preparation of ACRS Report (Open/Closed)—The Committee will discuss proposed ACRS reports/letters regarding items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered and to discuss information involved in an adjudicatory proceeding.

Saturday April 7, 1984

8:30 a.m.–9:15 a.m.: Appointment of ACRS Members (Closed)—The members will discuss the qualifications of candidates proposed for appointment to the Committee.

This portion of the meeting will be closed to discuss information the release of which would represent an unwarranted invasion of personal privacy.

9:15 a.m.–12:30 p.m.: Preparation of ACRS Report (Open/Closed)—The Committee will complete preparation of reports/letters regarding items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered and information involved in an adjudicatory proceeding.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1983 (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 prepaid 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 inconvenience.

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 and information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)), information involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)), information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

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. est.

Dated: March 28, 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-8718 Filed 3-30-84; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

Procurement Assistance

AGENCY: Small Business Administration.

ACTION: Notice of policy.

SUMMARY: This Notice sets forth Small Business Administration policy with respect to the interpretation of sections 8(d) and 15(g) of the Small Business Act, 15 U.S.C. 637(d) and 644(g). It broadens the definition of the term "subcontract" for purposes of sections 8(d) and 15(g) of the Act. It permits agreements for purchase of business services and, in conjunction with section 7(j)(9) of the Act, agreements for provision of financial services with small minority owned and controlled financial institutions to qualify as subcontracts for purposes of meeting subcontracting goals and credits. This policy change represents a significant expansion of past SBA procedures regarding subcontracting goals and credits. Therefore, SBA invites public comment on this notice for a period of 60 days following its publication in the **Federal Register**.

DATE: This notice will be effective July 2, 1984.

ADDRESS: Comments should be addressed to William Smith, Office of Capital Ownership Development, Small Business Administration, 1441 L Street, NW., Room 602, Washington, D.C. 20416 (telephone 202/653–6475).

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Policy

The Small Business Administration is hereby making this statement of policy with respect to interpretation of sections 8(d) and 15(g) of the Small Business Act, 15 U.S.C. and 637(d) and 644(g). Parts of this statement of policy were announced on September 19, 1982, in a letter from the Deputy Associate Administrator for Procurement System Implementation of OFPP to the then Associate Administrator for Minority Small Business and Capital Ownership Development of SBA. The text of that letter is reprinted below:

Dr. Robert L. Wright, Jr.,
Associate Administrator for Minority Small Business,
Small Business Administration,
Washington, D.C. 20416

Dear Dr. Wright: In your letter of August 30, 1982, you refer to an earlier letter to E.G. Bowman Company, Inc., of January 18, 1982, in which we advised that a proportionate share of premiums paid to a small disadvantaged insurance broker may be included as part of the goal of a prime contractor for subcontracts to be placed with small disadvantaged companies if the prime contractor elects to include indirect costs, generally, in his subcontracting goals. Your August 30 letter raises the question of whether subcontracting goals may also include the use of minority financial institutions by prime contractors. In our opinion deposits with such institutions are properly includable if the prime contractor elects to include indirect costs, generally, in its subcontracting goals.

It will be necessary, of course, to develop a method to determine, either uniformly or on a case-by-case basis, the "value" or worth to the financial institution of such deposits. Such "value" would be used in calculating the indirect costs creditable against percentage goals under Policy Letter 80–2. Care should be taken, of course, as noted in your letter, that the "value" of such deposits not constitute a disproportionate share of the total subcontracts placed with small disadvantaged firms.

Sincerely,

Owen Birnbaum,

Deputy Associate Administrator for Procurement System Implementation.

In furtherance of the policy announced in the OFPP letter SBA hereby announces the following additional policies with respect to further implementation of sections 8(d) and 15(g) of the Small Business Act.

For purposes of sections 8(d) and 15(g) of the Small Business Act:

(1) The term "Sucontract" shall include an agreement for the purchase of insurance, bonding, and other general business services.

a. In the event that the full amount of the insurance, bonding, and other general business expenses is directly necessary for the performance of the contract by the prime contractor, the full amount of such expenses may be included in calculating subcontracting goals and credits

b. In the event that such expenses are normally allocated as indirect or overhead costs, the proportionate share allocable to the contract may be included in calculating subcontracting goals and credits

(2) The term "Subcontract" shall also include an agreement for financial services from any authorized financial institution, including provision of checking accounts, Federal or State tax withholding accounts, escrow trust accounts, credit related services, cash management services.

a. In the event that the full value of financial services, as defined herein, is directly related to the performance of a contract by a prime contractor, the full value of such services may be included in calculating subcontracting goals and credits. Value shall be determined as per paragraph 2(c) of this notice and is subject to the limitations contained in paragaph 2(d).

b. In the event that a portion of the value of the financial services is related to the performance of the contract by the prime contractor, the proportionate share allocable to the contract may be included in calculating subcontracting goals and credits.

c. Calculation of Value

(1) For loans and other cost-bearing services, value shall be defined as the full amount of interest or other fees actually paid to the financial institution.

(2) For non-interest bearing depository accounts, the value of the deposits shall be the average daily net collected balance of the account over the term of the contract as determined according to generally accepted banking principles.

d. In order to ensure that a disproportionate share of subcontracting goals are not met by the use of financial institutions, the value of financial services which may be credited towards section 15(g) subcontracting goals shall not exceed ten percent of the overall subcontracting goal for small socially and economically disadvantaged business of a given prime contractor.

e. This policy is applicable to prime contractors who have approved annual section 8(d) subcontracting plans and for those who submit section 8(d) subcontracting plans on a single contract basis. Federal Contracting Officers are to present this option to prime contractors in their deliberations on the subcontracting provisions of the Small Business Act. Federal prime contractors who elect to use this option are to use minority owned and controlled financial institution supplied documents to verify their deposits and the value of such deposits.

f. Pursuant to this notice of policy, only small minority financial institutions will be considered "authorized financial institutions" for purposes of subcontracting goals and credits. A small minority financial institution is defined as a commercial bank or savings and loan association which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of a publicly owned institution, at least 51 per centum of the stock which is owned by one or more socially and economically disadvantaged individuals; and whose daily business operations are controlled by one or more such individuals. Also for purposes of this notice, the term "socially and economically disadvantaged individual" shall have the same meaning as given to it pursuant to section 8(d) of the Small Business Act, 15 U.S.C 637(d), and the regulations promulgated by SBA interpreting that provision.

Dated: February 17, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–8361 Filed 3–30–84; 8:45 am]

BILLING CODE 9025–01–M

DEPARTMENT OF STATE

Office of the Secretary

Establishment of United Nations Educational, Scientific, and Cultural Organization Monitoring Panel

The Department of State, pursuant to the Federal Advisory Committee Act, is establishing a Monitoring Panel for the United Nations Educational, Scientific, and Cultural Organization. Its purpose is to monitor and report on the activities of, practices of, and developments within UNESCO's five sectors, during the calendar year 1984. The Panel will report to the Secretary of State. The Panel's functions are solely advisory and it will assist the Secretary of State to determine the future relations of the United States with UNESCO.

In approving the decision to withdraw from UNESCO, announced on December 28, 1983, the President instructed the Secretary of State to make every effort during the one-year notice period to return UNESCO to its original laudatory goals and purposes. The President directed the Secretary of State to create an advisory group, composed of members of the academic, media, and business communities, to provide the government with private counsel concerning future U.S. policy vis-a-vis UNESCO. The Monitoring Panel is necessary and in the public interest as it will provide the Secretary of State with a source of disinterested advice.

For further information, call or write: Lee Sanders, IO/MP, Room 4808, Department of State, 2201 C Street, NW., Washington, D.C. 20520, (202) 632–2674.

Dated: March 29, 1984.

Richard V. Hennes,

Executive Director, International Organization Affairs.

[FR Doc. 84–8816 Filed 3–30–84; 9:40 am]

BILLING CODE 4710–19–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Executive Steering Committee of the Federal Aviation Administration National Airspace Review Advisory

Committee. The agenda for this meeting is as follows:

Opening Remarks
Presentation of Task Group Staff Studies, including recommendations:
Task Group 1–6.4—SID and STAR Charts and the Airport/Facility Directory
Task Group 2–2.4—Parachute, Glider and Ultralight Operations
Task Group 3–1.2—Flight Plan Format
Task Group 3–2.1—International Delegated Airspace
Unfinished business.

DATE: April 24, 1984, convenes at 10 a.m.

ADDRESS: The meeting will be held at the Federal Aviation Administration, room 1010, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT–30, Washington, D.C. 20591, 202–426–3560. Attendence is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by April 17, 1984. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on March 26, 1984.

R. J. Van Vuren,

Executive Director, NARAC.

[FR Doc. 84–8639 Filed 3–30–84; 8:45 am]

BILLING CODE 4910–13–M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–3 of the Federal Aviation Administration National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of Federal Aviation Regulations, Part 91 Subpart B, for simplification and reduction of regulations including associated equipment requirements.

DATE: Beginning Monday, April 30, 1984, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 9A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Execurive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by April 23. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on March 26, 1984.

John Watterson,

Acting Manager, Special Projects Staff Office of the Associate Administrator for Air Traffic.

[FR Doc. 84–8640 Filed 3–30–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 27, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and/or to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0805
Form Number: IRS Form 5472
Type of Review: Revision
Title: Information Return of Foreign Owned Corporation

OMB Number: 1545–0215
Form Number: IRS Forms 5712 and 5712–A
Type of Review: Revision
Title: Election to be Treated as a Possessions Corporation Under Section 936; Election to Use the Cost Sharing or Profit Split Method Under Section 936(h)(5)

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Customs Service

OMB Number: 1515–0023
Form Number: Customs Form 7543
Type of Review: Extension
Title: Certificate of Delivery of Imported Merchandise

OMB Number: 1515–0028
Form Number: Customs Form 7585
Type of Review: Extension
Title: Certificate of Manufacture and Delivery

OMB Number: 1515–0033
Form Number: Customs Form 7545
Type of Review: Extension
Title: Certificate of Delivery of Delivery of Alcohol—Tax Paid

OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Gary Kowalczyk,

Departmental Reports Management Office.

[FR Doc. 84–8756 Filed 3–30–84; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 64
Monday, April 2, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 28, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, April 4, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Turner Brothers, Inc., Docket No. CENT 83–12.

2. Green Hill Mining Co., Inc., Docket No. KENT 83–251 (Issues include whether the administrative law judge erred in entering an order of default against the operator.)

3. Jack Gravely v. Ranger Fuel Corporation, Docket No. WEVA 83–101–D; (Issues include whether the administrative law judge erred in dismissing the miner's discrimination complaint.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 84–8809 Filed 3–29–84; 3:21 pm]
BILLING CODE 6735–01–M

2

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10:15 a.m. (EST), Wednesday, April 4, 1984.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA ITEMS: Approval of minutes of meeting held on March 19, 1984.

DISCUSSION ITEM: 1. TVA report, "How Clean Is Our Air?: An Update."

ACTION ITEMS:

Old Business

1. Supplement to Contract No. TV–61177A between TVA and Redark Development Authority (formerly Southeast Oklahoma Public Facilities Authority) for the purpose of furthering economic development in the southeast Oklahoma area.

New Business

B—Purchase Awards

* B1. Sales Inquiry V1–442011–A—Proposed sale of unused fabricated carbon steel pipe and accessories at Hartsville and Yellow Creek nuclear plants to Piping Products, Incorporated.

B2. Requisition 89—Coal for Cumberland Steam Plant.

C—Power Items

C1. Sale of lease of the Fabius coal washing facility, Jackson County, Alabama—Tract No. XACOR–3L.

E—Real Property Transactions

E1. Sale of permanent easement to Cecil C. Sanders for the construction, operation, and maintenance of a road affecting approximately 0.52 acres of Chatuge Reservoir land in Towns County, Georgia—Tract No. XCHR–73H.

E2. Filing of condemnation cases.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

DATED: March 28, 1984.

W. F. Willis,
General Manager.

[FR Doc. 84–8800 Filed 3–29–84; 1:23 pm]
BILLING CODE 8120–01–M

* Items approved by individual Board members. This would give formal ratification to the Board's action.

federal register

Monday
April 2, 1984

Part II

Office of Management and Budget

Budget Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals of budget authority totaling $42,632,000.

The deferrals affect the Departments of Justice and Transportation. The details of the deferrals are contained in the attached reports.

Ronald Reagan,

The White House,
March 26, 1984.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Justice	
	Interagency Law Enforcement	
D84-57	Organized crime drug enforcement	272
	Federal Bureau of Investigation	
D84-58	Salaries and expenses	42,000
	Department of Transportation	
	Federal Aviation Administration	
D84-59	Facilities, engineering and development	360
	Total, deferrals	42,632

****

SUMMARY OF SPECIAL MESSAGES
FOR FY 1984
(in thousands of dollars)

	Rescissions	Deferrals
Eighth special message:		
New items	---	42,632
Revisions to previous special messages	---	---
Effects of eighth special message	---	42,632
Amounts from previous special messages that are changed by this message (change noted above)	---	---
Subtotal, rescissions and deferrals	---	42,632
Amounts from previous special messages that are not changed by this message	636,411	7,261,525
Total amount proposed to date in all special messages	636,411	7,304,157

Deferral No: D84-57

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice
Bureau: Interagency Law Enforcement
Appropriation title & symbol: Organized Crime Drug Enforcement 15X0323 1/
OMB identification code: 15-0323-0-1-751
Grant program: ☐ Yes ☒ No
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year

New budget authority (P.L. _____) $ _____
Other budgetary resources 18,143,000
Total budgetary resources 18,143,000
Amount to be deferred: Part of year _____ Entire year 272,000
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: This appropriation finances renovation of existing penal and correctional institutions. Projects are undertaken to relieve current conditions of overcrowding and provide safe, efficient and adequately sized and equipped facilities for the operation of correctional programs within the Federal Prison System in support of overall criminal justice system initiatives. The deferral of $272,000 is related to the work performed on the Leavenworth Control/Segregation unit project which is scheduled for completion in May 1985. Due to the time required for the work in process, it would be impossible to complete the project during 1984.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a deferral in 1983 (D83-56).

Deferral No: D84-58

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 98-166): $ 63,000,000
Bureau: Federal Bureau of Investigation	Other budgetary resources:
Appropriation title & symbol: Salaries and Expenses 154/50200	Total budgetary resources: 63,000,000
	Amount to be deferred: Part of year: Entire year: 42,000,000
OMB identification code: 15-0200-0-1-751	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [X] Multiple-year September 30, 1985 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: This account provides for expenses necessary for detection, investigation, and prosecution of crimes against the United States by the Federal Bureau of Investigation (FBI). In 1984, $52 million for automated data processing and telecommunications, $10 million for the relocation within the District of Columbia of the Washington field office, and $1 million for undercover operations were made available until September 30, 1985. Due to changes required in the design of a major ADP system for fingerprint identification processing and a decision to release functional specifications before an RFP is published, obligations of $34 million will be delayed until 1985. In addition, due to delays in finding new space for the FBI's Washington field office, $8 million will not be obligated until 1985.

Estimated Program Effect: None.

Outlay Effect: None.

Deferral No: D84-59

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L.): $
Bureau: Federal Aviation Administration	Other budgetary resources: 3,971,000
Appropriation title & symbol: Facilities, Engineering and Development, FAA 69X1303	Total budgetary resources: 3,971,000
	Amount to be deferred: Part of year: Entire year: 360,000
OMB identification code: 69-1303-0-1-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The 1983 appropriation provided funds to procure four Evaluation, Currency and Training (ECT) aircraft being leased through the Operations appropriation under a lease-purchase arrangement. Two of these aircraft will be purchased during the first quarter of 1984 using unobligated funds brought forward in this appropriation. A reprogramming during 1983 to meet unanticipated requirements left insufficient funds in this appropriation to purchase the remaining two aircraft in 1984. They will continue to be leased through the Operations appropriation during 1984, thereby making purchase possible in 1985 through this appropriation at a reduced price. This deferral is necessary to assure that sufficient funds will be available in 1985 to execute the purchase.

Estimated Program Effect: None.

Outlay Effect: None.

[FR Doc. 84-8703 Filed 3-30-84; 8:45 am]
BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 49, No. 64

Monday, April 2, 1984

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

13001-13098.....2

LIST OF PUBLIC LAWS

Last List March 30, 1984.

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030)

S.J. Res. 241/Pub. L. 98-247

To authorize and request the President to issue a proclamation designating May 6 through May 13, 1984 as "Jewish Heritage Week". (March 28, 1984; 98 Stat. 111) Price: $1.50

TABLE OF EFFECTIVE DATES AND TIME PERIODS—APRIL 1984

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
April 2	April 17	May 2	May 17	June 1	July 2
April 3	April 18	May 3	May 18	June 4	July 2
April 4	April 19	May 4	May 21	June 4	July 3
April 5	April 20	May 7	May 21	June 4	July 5
April 6	April 23	May 7	May 21	June 5	July 5
April 9	April 24	May 9	May 24	June 8	July 8
April 10	April 25	May 10	May 25	June 10	July 9
April 11	April 26	May 11	May 29	June 11	July 10
April 12	April 27	May 14	May 29	June 11	July 11
April 13	April 30	May 14	May 29	June 12	July 12
April 16	May 1	May 16	May 31	June 15	July 16
April 17	May 2	May 17	June 1	June 18	July 16
April 18	May 3	May 18	June 4	June 18	July 17
April 19	May 4	May 21	June 4	June 18	July 18
April 20	May 7	May 21	June 4	June 19	July 19
April 23	May 8	May 23	June 7	June 22	July 23
April 24	May 9	May 24	June 8	June 25	July 23
April 25	May 10	May 25	June 11	June 25	July 24
April 26	May 11	May 25	June 11	June 25	July 25
April 27	May 14	May 29	June 11	June 26	July 26
April 30	May 15	May 30	June 14	June 29	July 30

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $550 domestic, $137.50 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1984
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
4	7.50	Jan. 1, 1983
5 Parts:		
1-1199	8.50	Jan. 1, 1983
1200-End, 6 (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0-45	9.00	Jan. 1, 1983
46-51	7.50	Jan. 1, 1983
52	9.00	Jan. 1, 1983
53-209	7.50	Jan. 1, 1983
210-299	7.00	Jan. 1, 1983
*300-399	7.50	Jan. 1, 1984
400-699	6.50	Jan. 1, 1983
700-899	6.50	Jan. 1, 1983
900-999	8.50	Jan. 1, 1983
1000-1059	7.50	Jan. 1, 1983
1060-1119	6.50	Jan. 1, 1983
1120-1199	7.00	Jan. 1, 1983
1200-1499	7.00	Jan. 1, 1983
1500-1899	6.50	Jan. 1, 1983
1900-1944	8.00	Jan. 1, 1983
1945-End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1-199	7.50	Jan. 1, 1983
*200-End	9.50	Jan. 1, 1984
10 Parts:		
0-199	9.00	Jan. 1, 1983
*200-399	12.00	Jan. 1, 1984
400-499	6.50	Jan. 1, 1983
500-End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1-199	7.00	Jan. 1, 1983
200-299	8.00	Jan. 1, 1983
300-499	7.00	Jan. 1, 1983
500-End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1-59	7.00	Jan. 1, 1983
60-139	7.00	Jan. 1, 1983
*140-199	7.00	Jan. 1, 1984
200-1199	7.00	Jan. 1, 1983
*1200-End	7.50	Jan. 1, 1984
15 Parts:		
0-299	6.50	Jan. 1, 1983
300-399	7.00	Jan. 1, 1983
400-End	7.50	Jan. 1, 1983

Title	Price	Revision Date
16 Parts:		
0-149	7.00	Jan. 1, 1983
150-999	7.00	Jan. 1, 1983
1000-End	7.00	Jan. 1, 1983
17 Parts:		
1-239	8.00	Apr. 1, 1983
240-End	7.00	Apr. 1, 1983
18 Parts:		
1-149	7.00	Apr. 1, 1983
150-399	8.00	Apr. 1, 1983
400-End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1-399	5.50	Apr. 1, 1983
400-499	7.00	Apr. 1, 1983
500-End	7.50	Apr. 1, 1983
21 Parts:		
1-99	6.00	Apr. 1, 1983
100-169	6.50	Apr. 1, 1983
170-199	6.50	Apr. 1, 1983
200-299	4.75	Apr. 1, 1983
300-499	8.00	Apr. 1, 1983
500-599	6.50	Apr. 1, 1983
600-799	5.00	Apr. 1, 1983
800-1299	6.00	Apr. 1, 1983
1300-End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0-199	6.00	Apr. 1, 1983
200-499	8.00	Apr. 1, 1983
500-799	5.00	Apr. 1, 1983
800-1699	6.50	Apr. 1, 1983
1700-End	6.00	Apr. 1, 1983
25	8.00	Apr. 1, 1983
26 Parts:		
§§ 1.0-1.169	8.00	Apr. 1, 1983
§§ 1.170-1.300	7.50	[1] Apr. 1, 1982
§§ 1.301-1.400	6.00	Apr. 1, 1983
§§ 1.401-1.500	7.00	Apr. 1, 1983
§§ 1.501-1.640	6.50	Apr. 1, 1983
§§ 1.641-1.850	7.50	[1] Apr. 1, 1982
§§ 1.851-1.1200	8.00	Apr. 1, 1983
§§ 1.1201-End	8.50	Apr. 1, 1983
2-29	7.00	Apr. 1, 1983
30-39	6.00	Apr. 1, 1983
40-299	7.50	Apr. 1, 1983
300-499	6.00	Apr. 1, 1983
500-599	8.00	[2] Apr. 1, 1980
600-End	5.00	Apr. 1, 1983
27 Parts:		
1-199	6.50	Apr. 1, 1983
200-End	6.50	Apr. 1, 1983
28	7.00	July 1, 1983
29 Parts:		
0-99	8.00	July 1, 1983
100-499	5.50	July 1, 1983
500-899	8.00	July 1, 1983
900-1899	5.50	July 1, 1983
1900-1910	8.50	July 1, 1983
1911-1919	4.50	July 1, 1983
1920-End	8.00	July 1, 1983
30 Parts:		
0-199	7.00	July 1, 1983
200-699	5.50	Oct. 1, 1983
700-End	13.00	Oct. 1, 1983
31 Parts:		
0-199	6.00	July 1, 1983
200-End	6.50	July 1, 1983

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	8.50	July 1, 1983
1–39, Vol. II	13.00	July 1, 1983
1–39, Vol. III	9.00	July 1, 1983
40–189	6.50	July 1, 1983
190–399	13.00	July 1, 1983
400–699	12.00	July 1, 1983
700–799	7.50	July 1, 1983
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
1–199	14.00	July 1, 1983
200–End	7.00	July 1, 1983
34 Parts:		
1–299	13.00	July 1, 1983
300–399	6.00	July 1, 1983
400–End	15.00	July 1, 1983
35	5.50	July 1, 1983
36 Parts:		
1–199	6.50	July 1, 1983
200–End	12.00	July 1, 1983
37	6.00	July 1, 1983
38 Parts:		
0–17	7.00	July 1, 1983
18–End	6.50	July 1, 1983
39	7.50	July 1, 1983
40 Parts:		
0–51	7.50	July 1, 1983
52	14.00	July 1, 1983
53–80	14.00	July 1, 1983
81–99	7.50	July 1, 1983
100–149	6.00	July 1, 1983
150–189	6.50	July 1, 1983
190–399	7.00	July 1, 1983
400–424	6.50	July 1, 1983
425–End	13.00	July 1, 1983
41 Chapters:		
1, 1–1 to 1–10	7.00	July 1, 1983
1, 1–11 to Appendix, 2 (2 Reserved)	6.50	July 1, 1983
3–6	7.00	July 1, 1983
7	5.00	July 1, 1983
8	4.75	July 1, 1983
9	7.00	July 1, 1983
10–17	6.50	July 1, 1983
18, Vol. I, Parts 1–5	6.50	July 1, 1983
18, Vol. II, Parts 6–19	7.00	July 1, 1983
18, Vol. III, Parts 20–52	6.50	July 1, 1983
19–100	7.00	July 1, 1983
101	14.00	July 1, 1983
102–End	6.50	July 1, 1983
42 Parts:		
1–60	12.00	Oct. 1, 1983
61–399	7.50	Oct. 1, 1983
400–End	17.00	Oct. 1, 1983

Title	Price	Revision Date
43 Parts:		
1–999	9.00	Oct. 1, 1983
1000–3999	14.00	Oct. 1, 1983
4000–End	7.50	Oct. 1, 1983
44	12.00	Oct. 1, 1983
45 Parts:		
1–199	9.00	Oct. 1, 1983
200–499	6.00	Oct. 1, 1983
500–1199	12.00	Oct. 1, 1983
1200–End	9.00	Oct. 1, 1983
46 Parts:		
1–40	9.00	Oct. 1, 1983
41–69	9.00	Oct. 1, 1983
70–89	5.00	Oct. 1, 1983
90–139	9.00	Oct. 1, 1983
140–155	8.00	Oct. 1, 1983
156–165	9.00	Oct. 1, 1983
166–199	7.00	Oct. 1, 1983
200–399	12.00	Oct. 1, 1983
400–End	7.00	Oct. 1, 1983
47 Parts:		
0–19	12.00	Oct. 1, 1983
20–69	14.00	Oct. 1, 1983
70–79	13.00	Oct. 1, 1983
80–End	13.00	Oct. 1, 1983
48	1.50	[3] Sept. 19, 1983
49 Parts:		
1–99	7.00	Oct. 1, 1983
100–177	9.00	Oct. 1, 1982
178–199	13.00	Nov. 1, 1983
200–399	12.00	Oct. 1, 1983
400–999	13.00	Oct. 1, 1983
1000–1199	12.00	Oct. 1, 1983
1200–1299	12.00	Oct. 1, 1983
1300–End	7.50	Oct. 1, 1983
50 Parts:		
1–199	9.00	Oct. 1, 1983
200–End	13.00	Oct. 1, 1983
*CFR Index and Findings Aids	17.00	Jan. 1, 1984
Complete 1983 CFR set	615.00	1983
Complete 1984 CFR set	550.00	1984
Microfiche CFR Edition:		
Complete set (one-time mailing)	155.00	1982
Subscription (mailed as issued)	250.00	1983
Subscription (mailed as issued)	200.00	1984
Individual copies	2.25	1983

[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

CFR ISSUANCES 1984

January 1984 Editions and Projected April, 1984 Editions

This list sets out the CFR issuances for the **January 1984** editions and projects the publication plans for the **April, 1984** quarter. A projected schedule that will include the **July, 1984** quarter will appear in the first **Federal Register** issue of July.

For pricing information on available 1983–1984 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The weekly CFR checklist or the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

*Indicates volume is still in production.

Titles revised as of January 1, 1984:

Title
CFR Index
1–2
3 (Compilation)
4
5 Parts:
1–1199*
1200–End
6 [Reserved]
7 Parts:
0–45
46–51
52
53–209*
210–299*
300–399
400–699*
700–899*
900–999*
1000–1059
1060–1119*
1120–1199
1200–1499
1500–1899
1900–1944*
1945–End*
8
9 Parts:
1–199*
200–End
10 Parts:
0–199*
200–399
400–499*
500–End
11 (Revised as of April 1, 1984)
12 Parts:
1–199*
200–299*
300–499*
500–End*
13*
14 Parts:
1–59
60–139*
140–199
200–1199*
1200–End
15 Parts:
0–299
300–399*
400–End
16 Parts:
0–149
150–999*
1000–End*

Projected April 1, 1984 editions:

17 Parts:
1–239
240–End
18 Parts:
1–149
150–399
400–End
19
20 Parts:
1–399
400–499
500–End
21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–End
22
23
24 Parts:
0–199
200–499
500–699
700–1699
1700–End
25
26 Parts:
1 (§§ 1.0–1–1.169)
1 (§§ 1.170–1.300)
1 (§§ 1.301–1.400)
1 (§§ 1.401–1.500)
1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.1200)
1 (§§ 1.1201–End)
2–29
30–39
40–299
300–499
500–599 (Cover only)
600–End
27 Parts:
1–199
200–End

Just Released

Code of Federal Regulations

Revised as of January 1, 1984

Quantity	Volume	Price	Amount
_____	CFR Index and Finding Aids Volume (Stock No. 022-003-95320-5)	$17.00	$_____
_____	Title 1-2 (Stock No. 022-003-95275-6)	6.00	_____
_____	Title 7—Agriculture (Parts 300-399) (Stock No. 022-003-95285-3)	7.50	_____
_____	Title 9—Animals and Animal Products (Part 200-End) (Stock No. 022-003-95298-5)	9.50	_____
		Total Order	$_____

A cumulative checklist of CFR issuances appears every Monday in the Federal Register in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐-☐

Order No._____

VISA

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		